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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

FARM CREDIT ADMINISTRATION

Effective upon publication in the FEDERAL REGISTER, paragraph (d) is added to § 6.141 as set out below.

§ 6.141 *Farm Credit Administration.*

* * *

(d) Until December 31, 1956, positions in the Central Bank for Cooperatives.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633, E. O. 10440, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-103; Filed, Jan. 5, 1956; 8:50 a. m.]

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

HOUSING AND HOME FINANCE AGENCY

Effective upon publication in the FEDERAL REGISTER, paragraphs (a) (1) and (3) and (c) (1) and (2) of § 6.142 are amended as set out below.

§ 6.142 *Housing and Home Finance Agency*—(a) *Office of the Administrator.* (1) Until December 31, 1956, Executive Secretary and Deputy Executive Secretary of the National Committee and the Executive Secretary and Deputy Executive Secretary of each regional subcommittee established under Title VI of the Housing Act of 1954.

* * * * *

(3) Until December 31, 1956, six Regional Administrators.

* * * * *

(c) *Federal Housing Administration.* (1) Until December 31, 1956, 80 Field Directors (State, District and Territorial).

(2) Until December 31, 1956, six Regional Directors.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633, E. O. 10440, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-104; Filed, Jan. 5, 1956; 8:50 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

NEW HEARING PROCEDURE

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER of August 9, 1955 (20 F. R. 5729), pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) and in which there was set out in full the terms of proposed revisions to Part 242, Chapter I, Title 8 of the Code of Federal Regulations, relating to the issuance of rules pertaining to proceedings to determine the deportability of aliens in the United States. Representations which were received concerning the proposed rules have been considered. The proposed rules have been amended. The amendatory regulations, as set out below, are hereby adopted. In addition, amendments have been made to Parts 235, 235a, 244, 263, 264, 299, and Part 318 has been added.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Part 242 is amended to read as follows:

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242.1 Order to show cause and notice of hearing.
242.2 Apprehension, custody, and detention.
242.3 Aliens confined to institutions; incompetents, minors.
242.4 Fingerprints and photographs.
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FEDERAL REGISTER

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AUTHORITY: §§ 242.1 to 242.23 issued under sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 242, 244, 292, 66 Stat. 208, 214, 235; 8 U. S. C. 1252, 1254, 1362.

§ 242.1 *Order to show cause and notice of hearing*—(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the issuance and service of an order to show cause by the Service. In the proceeding the alien shall be known as the respondent. Orders to show cause may be issued by district directors, deputy district directors, district officers who are in charge of investigations, or officers in charge of suboffices.

(b) *Statement of nature of proceeding.* The order to show cause will contain a statement of the nature of the

proceeding, the legal authority under which the proceeding is conducted, a concise statement of factual allegations informing the respondent of the acts or conduct alleged to be in violation of the law, and a designation of the charges against the respondent and of the statutory provisions alleged to have been violated. The order will require the respondent to show cause why he should not be deported. The order will call upon the respondent to appear before a special inquiry officer for hearing at a time and place stated in the order, not less than seven days, after the service of such order, except that where the issuing officer, in his discretion, believes that the public interest, safety, or security so requires, he may provide in the order for a shorter period. The issuing officer may, in his discretion, fix a shorter period in any other case at the request of and for the convenience of the respondent.

(c) *Service.* Service of the order to show cause shall be made by having a copy delivered to the respondent by an immigration officer or by mailing it to the respondent at his last known address by registered mail, return receipt requested. Delivery of a copy within this rule means: handing it to the respondent or leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. The post office return receipt or the certificate by the officer serving the order by personal delivery setting forth the manner of said service shall be proof of service.

§ 242.2 *Apprehension, custody, and detention*—(a) *Warrant of arrest.* At the commencement of any proceeding under this part, or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242 (d) of the act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest issued by a district director or officer in charge of a suboffice whenever, in the discretion of any such officer, it appears that the arrest of the respondent is necessary or desirable.

(b) *Authorized officers.* A district director or officer in charge of a suboffice may exercise the authority contained in section 242 of the act to continue or detain an alien in, or release him from, custody, and shall promptly notify the alien in writing of any determination made in his case. The alien may appeal to the Board of Immigration Appeals from any determination of such officer relating to bond, parole, or detention. Such appeal shall be taken by filing a notice of appeal with the district director or officer in charge of a suboffice within 5 days after the date when written notification of the determination is delivered in person or mailed to the alien. Upon the filing of such a notice of appeal, the district director or officer in charge of a suboffice shall immediately transmit to the Board of Immigration Appeals all records and information pertaining to his action in relation to such bond, parole, or detention and shall notify the regional commissioner. The filing of such an appeal shall not operate to disturb the custody of the alien or to stay the administrative proceedings or deportation. The foregoing provisions concerning notice, reporting, and appeal shall not apply when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose.

(c) *Revocation of bond or parole.* When an alien who having been arrested and taken into custody has been released under bond or released on parole, such bond or parole may be revoked at any time in the discretion of the district director or officer in charge of a suboffice, in which event the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and cancelled.

(d) *Supervision.* An alien against whom a final order of deportation has been outstanding for more than six months shall, pending deportation, be subject to supervision by a district director or officer in charge of a suboffice. An alien placed under supervision shall, among other things, be required to appear from time to time at specified intervals for identification before an officer of the Service; submit, if necessary, to medical and psychiatric examination at government expense; give information under oath as to his nationality, circumstances, habits, associations, and activities, and other information whether or not related to the foregoing as may be deemed fit and proper; and conform to such reasonable written restrictions on his conduct or activities as may be prescribed.

§ 242.3 *Aliens confined to institutions; incompetents, minors*—(a) *Service.* If the respondent is confined in a penal or mental institution or hospital and is competent to understand the nature of the proceedings, a copy of the order to show cause, and the warrant of arrest, if issued, shall be served upon him and upon the person in charge of the institution or hospital. If the respondent is not competent to understand the nature of the proceedings, a copy of the order to show cause, and the warrant of arrest, if issued, shall be served only upon the person in charge of the institution or hospital in which the respondent is confined, such service being deemed service upon the respondent. In case of mental incompetency, whether or not confined in an institution, and in the case of a child under 16 years of age, a copy of the order and of the warrant of arrest, if issued, shall be served upon such respondent's guardian, near relative, or friend, whenever possible.

(b) *Service custody; cost of maintenance.* An alien confined in an institution or hospital shall not be accepted into physical custody by the Service until an order of deportation has been made and the Service is ready to deport the alien. When an alien is an inmate of a public or private institution at the time of the commencement of the deportation proceedings, expense for the maintenance of the alien shall not be incurred by the Government until he is taken into physical custody by the Service.

§ 242.4 *Fingerprints and photographs.* Every alien 14 years of age or older against whom proceedings are commenced under this part shall be fingerprinted. Any such alien, regardless of his age, shall be photographed if a photograph is required by the district director or the officer in charge of a suboffice.

§ 242.5 *Voluntary departure prior to commencement of hearing*—(a) *Authorized officers.* The authority contained in section 242 (b) of the act to permit aliens to depart voluntarily from the United States may be exercised by district directors, district officers who are in charge of investigations, officers in charge of suboffices, and supervisory immigration officers in charge of stations.

(b) *Application.* Any alien, other than an alien prima facie deportable under section 242 (f) of the act, who believes himself to be eligible for voluntary departure under section 242 (b) of the act may apply therefor at an office of the Service anytime prior to the commencement of his hearing under an order to show cause. The officers designated in paragraph (a) of this section may deny or grant the application and determine the conditions under which the alien's departure shall be effected. An appeal shall not lie from a denial of an application for voluntary departure under this section, but the denial shall be without prejudice to the alien's right to apply for relief from deportation under any provision of law.

(c) *Revocation.* If, subsequent to the granting of an application for voluntary departure under this section, it is ascertained that the application should not have been granted, that grant may be revoked without notice by any district director, district officer in charge of investigations, officer in charge of a suboffice, or supervisory immigration officer in charge of a station.

§ 242.6 *Aliens deportable under section 242 (f) of the act.* In the case of an alien within the purview of section 242 (f) of the act, the order to show cause shall charge him with deportability only under section 242 (f) of the act. The prior order of deportation and evidence of the execution thereof, properly identified, shall constitute prima facie cause for deportation under that section.

§ 242.7 *Cancellation of proceedings.* If an order to show cause has been issued, a district director, deputy district director, district officer who is in charge of investigatons, or an officer in charge of a suboffice may cancel the order to show cause or, prior to the actual commencement of the hearing under a served order to show cause, terminate proceedings thereunder, if in either case he is satisfied that the respondent is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States. If an order to show cause has been cancelled or proceedings have been terminated pursuant to this

section, any outstanding warrant of arrest shall also be cancelled.

§ 242.8 *Special inquiry officers*—(a) *Authority.* In a proceeding conducted under this part, the special inquiry officer shall have the authority to determine deportability and to make decisions including orders of deportation as provided by section 242 (b) of the act, to reinstate orders of deportation as provided by section 242 (f) of the act, to suspend deportation and authorize voluntary departure as provided by section 244 of the act, to authorize preexamination as provided by part 235a of this chapter, to take or cause depositions to be taken, to certify the completeness and correctness of transcripts of hearings, and to take any other action consistent with applicable provisions of law and regulations. In his discretion, the special inquiry officer may exclude from the record any argument in connection with motions, applications, or objections, but in such event the person affected may submit a brief. Nothing contained in this part shall be construed to diminish the authority conferred on special inquiry officers by the act.

(b) *Withdrawal and substitution of special inquiry officers.* The special inquiry officer assigned to conduct the hearing shall at any time withdraw if he deems himself disqualified. If a hearing has begun but no evidence has been adduced other than by the respondent's pleading pursuant to § 242.16 (b), or if a special inquiry officer becomes unavailable to complete his duties within a reasonable time, or if at any time the respondent consents to a substitution, another special inquiry officer may be assigned to complete the case. The new special inquiry officer shall familiarize himself with the record in the case and shall state for the record that he has done so.

§ 242.9 *Examining officers*—(a) *Authority.* When an additional immigration officer is assigned to a proceeding under this part to perform the duties of an examining officer, he shall present the evidence on behalf of the Government as to deportability as provided in section 242 (b) of the act. The examining officer shall also inquire thoroughly into the respondent's eligibility for any requested discretionary relief from deportation and shall develop such other information as may be pertinent to the proper disposition of any case to which he is assigned. The examining officer is authorized to appeal from a decision of a special inquiry officer pursuant to § 242.21 and to move for reopening or reconsideration pursuant to Part 8 of this chapter.

(b) *Assignment.* The district director or officer in charge of a suboffice shall assign an examining officer to every case within the provisions of § 242.16 (c). In his discretion, or at the request of the special inquiry officer, the district director or officer in charge of a suboffice may assign an examining officer to any other case at any stage of the proceedings.

§ 242.10 *Representation by counsel.* The respondent may be represented at the hearing by an attorney or other representative qualified under Part 292 of this chapter.

§ 242.11 *Incompetent respondents.* When it is impracticable for the respondent to be present at the hearing because of mental incompetency, the guardian, near relative, or friend who was served with a copy of the order to show cause shall be permitted to appear on behalf of the respondent. If such a person cannot reasonably be found or fails or refuses to appear, the custodian of the respondent shall be requested to appear on behalf of the respondent.

§ 242.12 *Interpreter.* Any person acting as interpreter in a hearing under this part shall be sworn to interpret and translate accurately, unless the interpreter is an employee of the Service, in which event no such oath shall be required.

§ 242.13 *Postponement and adjournment of hearing.* Prior to the commencement of a hearing, the district director or the officer in charge of a suboffice may grant a reasonable postponement for good cause shown, at his own instance upon notice to the respondent, or upon request of the respondent. After the commencement of the hearing, the special inquiry officer may grant a reasonable adjournment either at his own instance or, for good cause shown, upon application by the respondent or the examining officer. A continuance of the hearing for the purpose of allowing the respondent to obtain representation shall not be granted more than once unless sufficient cause for the granting of more time is shown.

§ 242.14 *Evidence*—(a) *Sufficiency.* A determination of deportability shall not be valid unless based on reasonable, substantial, and probative evidence.

(b) *Confidential information.* A denial of discretionary relief from deportation may be based upon confidential information as provided by § 244.3 of this chapter.

(c) *Use of prior statements.* The special inquiry officer may receive in evidence any oral or written statement which is material and relevant to any issue in the case previously made by the respondent or any other person during any investigation, examination, hearing, or trial.

(d) *Testimony.* Testimony of witnesses appearing at the hearing shall be under oath or affirmation administered by the special inquiry officer.

§ 242.15 *Contents of record.* The hearing before the special inquiry officer, including the respondent's pleading, the testimony, the exhibits, the special inquiry officer's decision, and all written orders, motions, appeals, and other papers filed in the proceeding shall constitute the record in the case. The hearing shall be recorded verbatim except for statements made off the record with the permission of the special inquiry officer.

§ 242.16 *Hearing*—(a) *Opening.* The special inquiry officer shall advise the respondent of his right to representation, at no expense to the Government, by counsel of his own choice authorized to practice in the proceedings and require him to state then and there whether he desires representation; advise the respondent that he will have a reasonable opportunity to examine and object to the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; place the respondent under oath; read the factual allegations and the charges in the order to show cause to the respondent and explain them in nontechnical language, and enter the order to show cause and warrant of arrest, if any, as exhibits in the record.

(b) *Pleading by respondent.* The special inquiry officer shall require the respondent to plead to the order to show cause by stating whether he admits or denies the factual allegations and his deportability under the charges contained therein. If the respondent admits the factual allegations and admits his deportability under the charges and the special inquiry officer is satisfied that no issues of law or fact remain, the special inquiry officer may determine that deportability as charged has been established by the admissions of the respondent.

(c) *Issues of deportability.* When deportability is not determined under the provisions of paragraph (b) of this section, the special inquiry officer shall request the assignment of an examining officer, and shall receive evidence as to any unresolved issues, except that no further evidence need be received as to any facts admitted during the pleading.

(d) *Additional charges.* An examining officer who has been assigned to a case may at any time during a hearing lodge additional charges of deportability, including factual allegations against the respondent. When additional charges are lodged, the special inquiry officer shall explain these charges to the respondent in nontechnical language and shall advise him if he is not represented by counsel, that he may be so represented. The special inquiry officer shall also inform the respondent that he may have a reasonable time within which to meet the additional charges. The respondent shall be required to state then and there whether he desires a continuance for either of these reasons.

(e) *Application for discretionary relief.* Except as provided in § 242.22 (c), the respondent may apply during the hearing for suspension of deportation on Form I–256A or voluntary departure under section 244 of the act or preexamination on Form I–63 under Part 235a of this chapter, or such other discretionary relief as may be appropriate to the case. The respondent has the burden of establishing his eligibility for discretionary relief and may submit evidence in support of his application.

§ 242.17 *Decision of special inquiry officer*—(a) *Contents.* The decision of the special inquiry officer may be oral or written. Except in cases where deportability is determined on the pleadings pursuant to § 242.16 (b), the decision shall include a summary of the evidence and shall set forth findings of fact and conclusions of law as to deportability. The decision shall also contain a discussion of the evidence relating to the re-

spondent's eligibility for any discretionary relief requested and the reasons for granting or denying the application. The decision shall be concluded with the order of the special inquiry officer.

(b) *Summary decision.* Notwithstanding the provisions of paragraph (a) of this section, in any case where deportability is determined on the pleadings pursuant to § 242.16 (b) and the respondent does not apply for any discretionary relief, or the respondent applies for voluntary departure only and the special inquiry officer grants the application, the special inquiry officer may enter a summary decision on Form I–38, if deportation is ordered, or on Form I–39 if voluntary departure is granted with an alternate order of deportation.

§ 242.18 *Order of special inquiry officer.* The order of the special inquiry officer shall be that the alien be deported, or that the proceedings be terminated, or that the alien's deportation be suspended, or that the alien be granted voluntary departure at his own expense in lieu of deportation, with or without preexamination, or any combination of these orders in the alternative or that such other action be taken in the proceedings as may be required for the appropriate disposition of the case.

§ 242.19 *Notice of decision*—(a) *Written decision.* A written decision shall be served upon the respondent and the examining officer, if any, by the district director or officer in charge of a suboffice together with the notice referred to in § 6.11 of this chapter.

(b) *Oral decision.* An oral decision shall be stated by the special inquiry officer in the presence of the respondent and the examining officer, if any, at the conclusion of the hearing. Unless appeal from the decision is then and there waived, a typewritten copy of the oral decision shall be served in the same manner as a written decision.

(c) *Summary decision.* When the special inquiry officer renders a summary decision as provided in § 242.17 (b), he shall serve a copy thereof upon the respondent at the conclusion of the hearing. Unless appeal from the decision is waived, the respondent shall also be furnished with two copies of Notice of Appeal, Form I–290A, and advised of the provisions of § 242.21 (c).

§ 242.20 *Finality of order.* The order of the special inquiry officer shall be final except when the case has been certified as provided in § 6.1 (c) or § 7.1 (b) of this chapter, or an appeal is taken to the Board of Immigration Appeals by the respondent or by the examining officer.

§ 242.21 *Appeals*—(a) *Non-appealable cases.* An appeal shall not lie from a decision of a special inquiry officer denying an application for voluntary departure or preexamination as a matter of discretion where the special inquiry officer has found the alien statutorily eligible for voluntary departure or eligible for preexamination pursuant to Part 235a of this chapter, and the alien has been in the United States for a period of less than five years at the time of the service of the order to show cause in deportation proceedings. A Notice of Appeal shall not be filed or accepted in any case within the provisions of this paragraph.

(b) *Cases appealable.* Pursuant to Part 6 of this chapter, an appeal shall lie from a decision of the special inquiry officer under this part to the Board of Immigration Appeals (except in cases covered by the provisions of § 242.20 relating to certifications). The reasons for the appeal shall be stated briefly in the Notice of Appeal, Form I–290A. When the conclusion as to deportability is contested, the appellant shall be required to indicate in the Notice of Appeal, Form I–290A, the particular findings of fact or conclusions of law with which he disagrees. Failure to do so may constitute a ground for dismissal of the appeal by the Board.

(c) *Time for taking appeal.* An appeal shall be taken within ten days after receipt of a written decision, or a typewritten copy of an oral decision, or a summary decision on Form I–38 or I–39.

§ 242.22 *Proceedings under section 242 (f) of the act*—(a) *Applicable regulations.* Except as hereafter provided in this section, all the provisions of §§ 242.8 to 242.21, inclusive, and § 242.23 shall apply to the case of a respondent within the purview of § 242.6.

(b) *Scope of hearing.* The hearing of an alien charged with deportability pursuant to § 242.6 shall be limited solely to a determination of the identity of respondent, i. e., whether the respondent is in fact an alien who was previously deported, or who departed while an order of deportation was outstanding; whether the respondent was previously deported as a member of any of the classes described in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241 (a) of the act; and whether respondent unlawfully reentered the United States.

(c) *Relief from deportation.* A respondent who is prima facie deportable under the provisions of section 242 (f) of the act shall not be permitted to apply for voluntary departure in lieu of deportation or for suspension of deportation and shall not be granted such relief.

(d) *Order.* If deportablity as charged pursuant to § 242.6 is established, the special inquiry officer shall order that the respondent be deported under the previous order of deportation in accordance with section 242 (f) of the act.

(e) *Examining officer; additional charges.* An examining officer shall be assigned to a proceeding under this section only when deportability remains in issue after the pleading by the respondent. If the examining officer lodges an additional charge, the provisions of paragraphs (b), and (c) of this section shall cease to apply.

§ 242.23 *Savings clause.* Deportation proceedings in which warrants of arrest were served prior to the date that orders to show cause were authorized to be issued pursuant to this part shall be completed in accordance with the regulations which were in effect immediately preceding that date, unless the respondents consent to proceed under the current regulations.

PART 235—INSPECTION OF ALIENS APPLYING FOR ADMISSION

1. The second sentence of § 235.6 *Preinspection in certain parts of the United States* is amended by deleting the words "an application for a warrant of arrest shall be made and".

2. The third sentence of paragraph (b) *Action at port of arrival* of § 235.51 *Preexamination procedure* is amended by deleting the words "an application for a warrant of arrest shall be made and" and by adding the words "shall be" after the word "proceedings" and before the word "conducted".

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103)

PART 235a—PREEXAMINATION OF ALIENS WITHIN THE UNITED STATES

The fourth sentence of § 235a.1 *Application* is amended to read as follows: "If the applicant is under deportation proceedings, the application shall be made to the special inquiry officer during the hearing pursuant to Part 242 of this chapter."

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103)

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

1. Section 244.1 is amended to read as follows:

§ 244.1 *Voluntary departure subsequent to commencement of hearing.* Subject to the provisions of section 244 (e) of the act and this part, a special inquiry officer may, subsequent to the commencement of the hearing provided for in Part 242 of this chapter, grant voluntary departure in lieu of deportation in the case of any alien who is the subject of deportation proceedings before such officer.

2. Section 244.2 is amended to read as follows:

§ 244.2 *Suspension of deportation.* An application for suspension of deportation shall be submitted in accordance with, and subject to, the provisions of Part 242 of this chapter and shall be determined and disposed of in accordance with the provisions of Part 242 of this chapter and this part.

3. Section 244.11 *Application for voluntary departure after issuance of warrant of arrest and prior to commencement of hearing* is revoked.

4. Section 244.12 *Application for voluntary departure subsequent to commencement of hearing; disposition* is amended by deleting the reference to "§ 242.61 (c)" and inserting in lieu thereof "Part 242 of this chapter".

5. Section 244.13 *Revocation of grant of voluntary departure* is revoked.

6. Section 244.14 is amended to read as follows:

§ 244.14 *Verification of departure; cancellation of delivery bond.* An alien's voluntary departure from the United States in accordance with the provisions of this part, shall, if verified to the satisfaction of the officer having administrative jurisdiction over the office in which the application for voluntary de-

parture was made, serve to terminate further proceedings in the case and to cancel any outstanding delivery bond.

7. Section 244.15 is amended to read as follows:

§ 244.15 *Extension of time to depart.* An application for extension of time within which to depart voluntarily from the United States in lieu of deportation shall be made to the officer having administrative jurisdiction of the office in which the case is pending. Such officer may, in his discretion, grant or deny the application. His decision shall be in writing and served upon the alien. No appeal shall lie from a decision denying an application for an extension of time within which to depart.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103)

PART 263—REGISTRATION OF ALIENS IN THE UNITED STATES: PROVISIONS GOVERNING SPECIAL GROUPS

Paragraph (a) of § 263.3 *Aliens under deportation proceedings or confined in institutions within the United States* is amended to read as follows:

(a) *Under deportation proceedings.* The fingerprinting of an alien under deportation proceedings commenced pursuant to Part 242 of this chapter shall be regarded as registration under section 262 of the Immigration and Nationality Act during the pendency of such proceedings. Pending completion of the deportation proceedings, the copy of the order to show cause served on the alien, endorsed to show that he has been fingerprinted, shall constitute the evidence of registration required to be carried with him and in his personal possession by section 264 of the Immigration and Nationality Act.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103)

PART 264—REGISTRATION OF ALIENS IN THE UNITED STATES: FORMS AND PROCEDURE

Subparagraph (4) of paragraph (c) *Forms constituting alien-registration receipt cards under the Immigration and Nationality Act* of § 264.1 *Alien registration receipt card* is amended to read as follows:

(4) *Order to show cause.* Pending completion of the deportation proceedings, the alien's copy of the order to show cause served on him shall be regarded as an alien-registration card.

(Sec. 103, 66 Stat. 173, 8 U. S. C. 1103)

PART 299—IMMIGRATION FORMS

The list of forms in § 299.1 *Prescribed forms* is amended by adding the following in numerical sequence:

I-38 Special Inquiry Officer's Decision (Deportation).
I-39 Special Inquiry Officer's Decision (Voluntary departure, alternate deportation).

(Sec. 103, 66 Stat. 173, 8 U. S. C. 1103)

PART 318—PENDING DEPORTATION PROCEEDINGS

Part 318 is added to read as follows:

SUBPART A—SUBSTANTIVE PROVISIONS

§ 318.1 *Warrant of arrest.* For the purposes of section 318 of the act, an order to show cause issued under Part 242 of this chapter shall be regarded as a warrant of arrest.

SUBPART B—PROCEDURAL AND OTHER NON-SUBSTANTIVE PROVISIONS [RESERVED]

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103. Interpret or apply secs. 242, 318, 332; 66 Stat. 208, 244, 252; 8 U. S. C. 1252, 1429, 1443)

The basis and purpose of the above prescribed regulations are to inaugurate new procedures to determine the deportability of aliens in the United States.

This order shall become effective on February 6, 1956. Compliance with the requirements of section 4 (c) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relating to delayed effective date is unnecessary and would serve no useful purpose in this instance because the persons affected by the regulations prescribed will not require additional time to prepare for the effective date of the regulations.

Dated: January 3, 1956.

J. M. SWING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 56-114; Filed, Jan. 5, 1956; 8:53 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Reg. No. SR-415]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

SPECIAL CIVIL AIR REGULATION; SUPPLEMENTAL AIR CARRIER CERTIFICATION AND OPERATION RULES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 29th day of December 1955.

The Board opinion which was made a part of Order No. E-9744, adopted November 15, 1955, effective January 1, 1956, explains that as a matter of new policy the Board established a new class of noncertificated air carriers designated "supplemental" air carriers who would be granted enlarged operating authority.

Accordingly, in Order No. E-9744 the Board issued a temporary exemption to all applicants named therein who held operating authority either as irregular air carriers or as irregular air transport carriers to operate within the scope of the new policy, pending final disposition of each air carrier's application for continued authorization to conduct operations as a supplemental air carrier.

At the present time, the Civil Air Regulations do not prescribe any rules to govern the operations of supplemental air carriers. The applicants named in Order No. E-9744 are conducting their operations as large irregular air carriers pursuant to the provisions of Part 42 of the Civil Air Regulations, and the Board believes that until operating experience reveals that further or different rules are necessary, supplemental air carriers should be allowed to continue their operations pursuant to Part 42.

This regulation is necessary to give effect to Order No. E-9744 and the opinion made a part thereof. Since this regulation is ancillary to said order and opinion; since it continues in effect the same rules as are presently applicable to the operators named in said order without diminution in safety standards; and since it would be contrary to the public interest not to prescribe rules to become effective on January 1, 1956, to govern the operations of such air carriers, the Board finds that notice and public procedure are impracticable and that good cause exists for making this regulation effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective January 1, 1956:

Contrary provisions of the Civil Air Regulations notwithstanding, any air carrier holding valid authority issued by the Board to perform air transportation as a supplemental air carrier in charter services and individual services, as defined in Appendix A attached to Board Order No. E-9744, shall be certificated and shall conduct such operations in accordance with the provisions of Part 42 of the Civil Air Regulations. An air carrier operating certificate presently issued by the Civil Aeronautics Administration to a large irregular air carrier shall, until its stated expiration date, be valid as a supplemental air carrier operating certificate for supplemental air carrier operations, unless sooner surrendered, suspended, or revoked. Such certificate may be renewed as an air carrier operating certificate for supplemental air carrier operations.

This regulation shall remain in effect until such time as new supplemental air carrier certification and operation rules become effective, unless sooner superseded or rescinded by the Board.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies secs. 601, 604, 52 Stat. 1007, as amended, 1010, as amended; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.[1]

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 56-118; Filed, Jan. 5, 1956; 8:54 a. m.]

[Reg. No. ER-207]

PART 225—TARIFFS OF CERTAIN CERTIFICATED AIRLINES: TRADE AGREEMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of December 1955.

A notice of proposed rule-making was published in the FEDERAL REGISTER on December 10, 1955 (20 F. R. 9182) and circulated to the industry as Economic

[1] Dissenting opinion of members Gurney and Denny filed as part of the original document.

Regulations Draft Release No. 79, dated December 7, 1955, which proposed renewal of this regulation and its amendment in several respects.

The nature and purposes of these amendments were detailed in the above-identified notice of proposed rule-making. The comments received by the Board do not oppose these amendments. However, the Conference of Local Service Airlines has suggested further amendments.

Section 225.9 (a) of the proposed regulation required any person supplying advertising to an airline, pursuant to a trade agreement, to afford the airline ten days prior written notice of any desired changes in its list of eligible personnel. The Conference objects to the specification of any definite period and seeks the substitution of a requirement for prior written notice in order to facilitate the implementation of such changes.

Section 225.2 of the proposed regulation provides that air transportation should be deemed to be furnished when the passenger is actually carried. The Conference represents that this provision has compelled airlines to investigate and verify the actual journey of passengers traveling pursuant to trade agreements. Consequently, it asks that transportation be deemed to be furnished when passengers are actually enplaned.

Upon consideration of these comments, the Board has concluded that both of these suggested changes should be incorporated in this regulation.

Interested persons have been afforded opportunity to participate in the formulation of this revision, and due consideration has been given to all relevant matter presented.

All of the amendments effectuated by this revision will serve to liberalize the present provisions of this rule and the carriers affected by such amendments have petitioned for this relief. Other persons are not directly concerned with these rules; and because of the limited amounts involved, and the small impact of the provisions herein on the traveling public, they are of little or no importance to them. For these reasons, the Board finds that these rules may be made effective on less than 30 days notice.

In consideration of the foregoing, the Civil Aeronautics Board finds that, to the extent, upon the terms and conditions, and for the periods hereinafter provided, enforcement of the provisions of title IV of the Civil Aeronautics Act of 1938, as amended, and the rules and regulations issued thereunder is or would be an undue burden on air carriers of the classification of air carriers hereby established, and such enforcement is not in the public interest.

The Board further finds that the classification hereby established is just and reasonable in view of the nature of the services performed by such carriers, and that the regulations and limitations hereby promulgated to be applicable to and observed by such class of air carriers are necessary and desirable in the public interest.

Accordingly, the Civil Aeronautics Board hereby amends Part 225 of the Economic Regulations (14 CFR Ch. I) effective January 1, 1956, to read as follows:

Sec.
225.1 Definitions.
225.2 Filing of notice of trade agreement.
225.3 Contents of notice of trade agreement.
225.4 Affidavit by chief financial or other responsible officer of airline.
225.5 Provisions of agreement.
225.6 Limitation on total value of trade agreements.
225.7 Suspension or termination of trade agreements by the board.
225.8 Exemption from tariff and other requirements.
225.9 Furnishing of transportation.
225.10 Accounts and records.
225.11 Value of air transportation.
225.12 Value of advertising goods and services.
225.13 Effective date.

AUTHORITY: §§ 225.1 to 225.13 issued under sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply secs. 403, 404, 416, 52 Stat. 992, as amended, 993, as amended, 1004, as amended; 49 U. S. C. 483, 484, 496.

§ 225.1 *Definitions.* For the purposes of this part:

(a) "Airline" means:

(1) Any air carrier furnishing local or feeder type transportation (other than by helicopter) within the continental limits of the United States, consisting of the carriage of persons, property, and mail under a certificate of public convenience and necessity issued by the Board.

(2) Any air carrier furnishing air transportation, between points within the Territory of Hawaii, consisting of the carriage of persons, property, and mail under a certificate of public convenience and necessity issued by the Board.

(3) Any air carrier furnishing air transportation pursuant to a certificate of public convenience and necessity issued by the Board which limits the holder to the performance of all-expense tours or cruises.

(b) "Trade agreements" shall mean an agreement whereby air transportation is to be exchanged for services or goods for advertising purposes, and which agreement conforms to the requirements of § 225.5.

(c) "Services or goods for advertising purposes" means newspaper or magazine display advertising, radio and television advertising, bus and streetcar advertising and other forms of media advertising, billboards and other outdoor advertising and advertising promotional displays. It also includes the services normally performed by an advertising agency and the services of such agency or any other person acting as an advertising agent or broker. It shall not include feature or news stories, public relations expense or other forms of advertising that are not clearly identifiable as paid advertisements of the carrier.

(d) "Air transportation" means air transportation provided by an airline over its own authorized routes under applicable individual or joint tariffs on file with the Board.

§ 225.2 *Filing of notice of trade agreement.* Any airline may at any time prior to December 17, 1956, file with the Board a notice of its intention to furnish air transportation in exchange for services or goods for advertising purposes. Every such notice shall be accompanied by an executed counterpart of a written agreement, containing all the terms of the agreement between the parties thereto, duly entered into by such air carrier with the supplier, and by an affidavit by the chief financial officer or other responsible officer of the local service airline having knowledge of the transaction in the form required by § 225.4. Every such notice shall be filed at least 14 days prior to the effective date specified in the trade agreement. Within the meaning of this part, air transportation shall be deemed to be furnished when the passenger is actually enplaned.

§ 225.3 *Contents of notice of trade agreement.* Every notice filed with the Board pursuant to § 225.2 shall be conspicuously entitled "Notice Concerning Exchange of Air Transportation for Services or Goods", and shall contain the following information:

(a) The names and addresses of the contracting parties;

(b) A description of the services or goods and the amount and value thereof to be received by the airline pursuant to the trade agreement, together with a statement of the basis upon which such value was computed—all of which shall be set forth in such detail as to enable the Board to verify such value;

(c) The total value of the air transportation to be furnished under all trade agreements previously filed with the Board under this part;

(d) Such other information as will enable the Board to determine whether the trade agreement was solicited by the airline or the supplier and has been entered into for the purpose of enabling the airline to obtain advertising which it could not afford if it were required to pay cash but for which it would have been willing to pay cash; and

(e) A description of the arrangements and provisions which have been made by the airline to ensure that air transportation will not be furnished to anyone except the individuals identified or described in the agreement.

§ 225.4 *Affidavit by chief financial or other responsible officer of airline.* Every affidavit filed with the Board pursuant to § 225.2 shall state that the officer whose signature appears thereon is familiar with the circumstances and that in his opinion and to the best of his knowledge and belief: (a) The trade agreement which it accompanies will be financially advantageous to the airline; (b) the services or goods to be received have an actual value to the airline equal to or in excess of the value of the air transportation to be furnished under the contract; and (c) the information contained in the notice is complete and correct.

§ 225.5 *Provisions of agreements.* Each trade agreement entered into by an airline hereunder shall provide:

(a) That it shall become effective on a specified day, preceding January 1, 1957.

(b) That goods or services are to be supplied to the airline and the airline is to be required to furnish air transportation to the supplier during a specified period of time which shall not extend more than one year from the effective date of the trade agreement.

(c) That the airline shall not be obligated to furnish any air transportation under a trade agreement unless such transportation is requested and furnished within the period specified therein. Any such agreement may provide, however, that in the event the agreement is terminated by the Board pursuant to § 225.7, the airline shall pay in cash (except to the extent the order of the Board terminating such agreement may permit all or any part, as specified in the order, of such excess to be paid in air transportation) any excess value of goods or services received thereunder prior to such termination over the value of the air transportation it has furnished under the agreement prior thereto.

(d) That in the event the air carrier at the time of expiration of the period during which goods or services are to be supplied to it, or at the time of termination of the agreement pursuant to § 225.7, has furnished air transportation having a value in excess of the value of the services or goods which it has received prior to such termination or the end of such period, such excess shall become payable, within not more than 90 days after such expiration or termination, to the airline in cash, goods, or services, or any combination thereof, as the parties may agree either in the original agreement or upon such expiration or termination (except to the extent any order of the Board terminating the agreement may require that all or any part, as specified in the order, of such excess shall be payable only in cash or within a different period);

(e) That, except to the extent provided in paragraph (d) and the last sentence of paragraph (c) of this section, the agreement shall immediately be terminated if at any time the Board shall issue an order to that effect pursuant to § 225.7;

(f) That the air transportation to be furnished pursuant to the agreement shall be used only by the supplier, his employees and their immediate families;

(g) That such air transportation shall not be transferable and shall be used only by the individuals identified or described in the agreement;

(h) That the published individual tariff rates, fares, and charges of the airline applicable at the time air transportation is furnished shall be used in determining the value of such transportation;

(i) That such agreement will be terminated by the air carrier immediately upon its discovery that air transportation issued under the agreement has been used by an individual not identified or described in the agreement, any excess in values resulting from transactions under the agreement prior to such termination to be settled as provided in paragraph (d) and the last sentence of paragraph (c) of this section;

(j) That the total value of air transportation furnished pursuant to the agreement shall not exceed a fixed amount stated therein;

(k) That the supplier will furnish to the Board such complete and accurate information as it or the airline shall reasonably request concerning the prices for, the value of, and the nature of the services or goods for advertising purposes only supplied or to be supplied to the airline, and the prices which it would customarily charge to others for similar services or goods; and

(l) That in the event the air carrier is operating pursuant to a certificate of public convenience and necessity which limits the holder to the performance of all-expense tours or cruises, it shall exchange air transportation for services or goods for advertising purposes only with respect to the value of the transportation portion of such tours or cruises and shall collect in cash the difference between such value and the total price of the tour or cruise.

§ 225.6 *Limitation on total value of trade agreements.* The total value of trade agreements entered into by any single airline in accordance with the provisions of this part shall not exceed $50,000 in the aggregate each year.

§ 225.7 *Suspension or termination of trade agreements by the Board.* If at any time after the filing of a trade agreement in accordance with § 225.2 the Board shall have doubt that the transaction is in the public interest, the Board may serve upon the airline an order directing it to show cause why such trade agreement should not be terminated. Upon service of such order performance of the agreement shall, unless otherwise provided in the order, immediately be suspended, and shall not thereafter be commenced or resumed unless and until the Board shall, after hearing upon such order, or other final determination of the matter, permit performance of the trade agreement to be commenced or resumed.

§ 225.8 *Exemption from tariff and other requirements.* With respect to air transportation furnished in accordance with the provisions of this part, every airline shall, in connection with the making or performance of trade agreements, be exempt from the provisions of Part 221 of this subchapter and any other regulations hereafter adopted by the Board insofar as any such regulation shall require tariffs to show classifications, rules, regulations, practices, and services, and from the provisions of section 403 (b) of the act only insofar as such provisions would otherwise require that such airline shall not charge or demand or collect or receive a greater or different compensation for the air transportation which it is to furnish pursuant to a trade agreement, or for any service in connection therewith, than the rates, fares and charges specified in its currently effective tariffs.

§ 225.9 *Furnishing of transportation.* (a) Prior to the effective date of any trade agreement entered into under this part, the supplier shall furnish the airline with a list of the individuals who are to use the air transportation to be furnished; provided that changes in the identity of the individuals who are to use the air transportation or other revisions in the list may be made by the supplier after the effective date of the agreement upon prior written notice to the airline;

(b) The airline shall issue to each of the individuals listed an identification card which clearly identifies the individual and states thereon that he is entitled to use transportation furnished pursuant to the named trade agreement during a stated period;

(c) Tickets covering transportation furnished under a trade agreement shall (1) be issued upon the demand of the supplier only; (2) be clearly marked "Non-Transferable"; and (3) be used only by an individual who has previously been issued an identification card described in paragraph (b) of this section; and

(d) The airline shall make such other arrangements and provisions as are necessary to ensure that air transportation furnished will not be used by anyone except the individuals identified or described in the agreement;

(e) No transportation shall be furnished under a trade agreement except in accordance with a ticket issued therefor.

§ 225.10 *Accounts and records.* (a) Each airline availing itself of the provisions of this part shall maintain a record of each trade agreement entered into, which record shall be filed in such manner as to be accessible and convenient for examination, and shall contain the following information: (1) The date received and the amount of goods or services supplied; (2) the names and addresses of individuals to whom identification cards were issued under the trade agreement; and (3) the date furnished and the amount of the air transportation furnished under the trade agreement. All correspondence or memorandums relating to trade agreements shall be retained and made a part of the carrier's records;

and

(b) In accounting for and reporting financial and traffic data in accordance with Part 241 of this subchapter (the Board's Economic Regulations):

(1) Advertising received in accordance with a trade agreement shall be billed and recorded in the carrier's expense accounts at the going market rate.

(2) Air transportation services provided in accordance with a trade agreement shall be billed and recorded in the carrier's accounts in accordance with its published tariffs. Such amounts shall be carried in the normal revenue account.

(3) Upon termination of a trade agreement, a reduction shall be made in the carrier's expense accounts to the extent, if any, that the value of advertising services received shall exceed the value of transportation services performed in return therefor, unless such balance is settled in cash, goods, or services of equivalent value.

§ 225.11 *Value of air transportation.* For the purposes of this part, the published tariff rates applicable at the time

air transportation is furnished pursuant to a trade agreement shall be used in determining the value thereof.

§ 225.12 *Value of advertising goods and services.* For the purposes of this part, advertising goods and services shall be valued at the going market price at the time such goods or services are furnished.

§ 225.13 *Effective date.* This part shall become effective January 1, 1956.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 56-117; Filed, Jan. 5, 1956; 8:54 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Regs. 814.15, 814.16]

PART 814—ALLOTMENT OF SUGAR QUOTAS

QUOTAS AND DIRECT CONSUMPTION PORTION, PUERTO RICO, 1956

Correction

In Federal Register Document 55-10261, appearing in the issue of Friday, December 23, 1955, the last sentence of the third paragraph of paragraph A of "Preliminary Statement" should read as follows: "All processings from a crop are used as a measure of the factor "processing of sugar or liquid sugar from * * * sugarcane to which proportionate shares * * * pertained," even though small quantities of processings from non-proportionate share sugar may be included, since such quantities have insignificant effect in the formula used for fixing allotments (R. 9)."

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 201—PROCEDURES OF THE POST OFFICE DEPARTMENT

PROCEDURES GOVERNING ADMINISTRATIVE HEARINGS RELATIVE TO DENIAL, SUSPENSION OR ANNULMENT OF SECOND-CLASS MAIL PRIVILEGES

Section 201.40 *Hearing required before suspension or annulment of second-class mail privileges* is amended to read as follows:

§ 201.40 *Procedures governing administrative hearings relative to the denial, suspension or annulment of second-class mail privileges*—(a) *Proceedings governed.* The provisions of paragraphs (a) through (ee) of this section shall govern all proceedings under sections 224, 225, 226, 227, 229, 230, 232 and 233 of Title 39 United States Code, relating to the denial of second-class mail privileges or the suspension or annulment thereof.

(b) *Hearings required.* Before the second-class mailing privileges of any publication which has applied therefor or which has been regularly entered as second-class mail matter shall be denied, suspended or annulled, such publication shall be offered an opportunity for a hearing in accordance with the rules of procedure hereinafter set forth.

(c) *Appearances.* The publisher of any publication which is the subject of these proceedings may appear and be represented either by its attorney or its owner or publisher. The Director, Division of Mail Classification, Post Office Department shall be represented by the Assistant Solicitor, Fraud and Mailability Division.

(d) *Publisher's appearance by attorney.* An attorney appearing in behalf of a publication must file with the Docket Clerk, Office of Hearing Examiners, Post Office Department, a written authorization from the publication to represent it, prior to participating in the proceeding. The attorney prior to appearance shall obtain admission to practice before this Department. Application forms and admission rules may be obtained from The Solicitor, Post Office Department, Washington 25, District of Columbia.

(e) *Pleadings, where filed.* Unless otherwise specified herein, all petitions, answers, motions, exceptions briefs, and other procedural documents shall be filed with the Docket Clerk, Room 5112, Post Office Department, Washington 25, D. C. Not less than four copies of any such document shall be filed, including the original which shall be signed by the party or his authorized representative as hereinafter required. Documents not properly signed and filed within the time limit specified therefor shall not be docketed but will be refused and returned to the party tendering same unless for good cause shown or by agreement of the opposing party this rule is relaxed by the hearing officer assigned to conduct the proceedings.

(f) *Institution of proceedings.* All proceedings shall be commenced by filing with the Docket Clerk a petition for a show cause order, which shall be issued forthwith by the Chief Hearing Examiner and which shall be served upon the party respondent as hereinafter set forth.

(g) *Petition for the annulment or suspension of second-class mailing privileges.* All proceedings seeking the annulment or suspension of the second-class mailing priviliges of any publication regularly entered as second-class matter or which has been granted a temporary second-class mailing permit shall be commenced upon the written request of the Director, Division of Mail Classification, addressed to the Assistant Solicitor, Fraud and Mailability Division, who shall thereupon file a petition for show cause order setting forth the statutes and postal regulations involved, together with a concise statement of the matters to be considered and forming the basis of the petition, including the respects in which the publication is alleged to have failed to qualify or to have maintained its qualification for the second-class mailing privileges. Said petition shall be addressed to the Postmaster General or to such officer as he may designate to act in his behalf, and shall request that the publication be called upon to show cause on a day certain why the prayers of the petition for the annulment or suspension of its second-class mailing privileges should not be granted forthwith.

(h) *Publisher's petition for review of proposed denial of second-class entry.* Any applicant for second-class mailing privileges, upon receipt of a notice from the Division of Mail Classification, that it proposes to deny the application, which notice shall state the grounds of such denial; may file with the Docket Clerk a petition requesting a hearing prior to the final departmental decision upon the application. Said petition shall be filed within 15 days from the mailing date of the notice of proposed denial. It shall state the grounds upon which it is based and the law, regulations and pertinent facts relied upon; and shall request that the Director, Division of Mail Classification be required to show cause why said proposed denial shall not be reversed and the application for second-class entry be granted; and shall further request a hearing upon the issues, in which the Division of Mail Classification shall be represented. Failure to file such a petition within 15 days shall make final the denial of the application.

(i) *Service of notice of hearing and other papers.* The show cause order shall be served upon the party respondent within a reasonable time, but not less than five (5) days in advance of the date for filing answer thereto and of the hearing thereon. It shall be sent to the last known office of a publication. A show cause order shall be served upon both the Director of Mail Classification and the Assistant Solicitor, Fraud and Mailability Division. All other notices and motions shall be similarly served upon the parties which shall be accorded a reasonable time to respond or reply thereto. The hearing officer assigned to the proceeding shall be responsible for the service of said papers by the Docket Clerk.

(j) *Answers.* (1) Any party served with a show cause order who wishes to be heard, shall, within the time specified therefor, file with the Docket Clerk an answer to the show cause order. Such answer shall contain a concise statement of the facts and contentions which constitute the party's defense. Any facts alleged in the show cause order which are expressly admitted or not denied in the answer may be considered as proved and no further evidence in respect of such facts need be adduced by the Post Office Department at the hearing.

(2) The answer of a publication shall be signed by the owner or publisher or his authorized representative. The Director of the Division of Mail Classification shall sign its answer.

(3) The answer shall set forth the respondent's address and the name and address of his attorney, if he is so represented.

(4) The respondent, who shall be the party answering the petition in the proceeding, must state in the answer whether there will be an appearance at the hearing either in person or by attorney.

(5) Any party who fails to deliver to the Docket Clerk an answer to the petition within the time specified in the notice of the hearing officer, shall be deemed to be in default, to have admitted the allegations of the complaint, and to have waived hearing and further procedural steps. The order recommended in the complaint may thereafter be issued without further notice to the respondent.

(k) *Amendments.* The petition upon which the show cause order is based may be amended not less than five (5) days, and the answer may be amended not less than three (3) days before the hearing. Thereafter, and at any time prior to the close of the hearing, the pleadings may be amended only on leave of the hearing officer. Such motion shall be accompanied by at least three written copies of the amendment. Motions to amend shall be liberally treated, but in any case where the amendment comprises new matter, a reasonable time shall be allowed within which the party affected by the amendment may familiarize himself with such matters and file reply before taking testimony in regard thereto. When issues not raised by the pleadings are tried by express or implied consent of the parties, they may be treated in all respects as if they had been raised in the pleadings.

(l) *Hearing officer; designation.* All hearings shall be held before such individual or individuals, as are duly designated by the Postmaster General.

(m) *Hearings before more than one person.* The Postmaster General may designate more than one hearing officer to conduct any proceeding. Where more than one hearing officer is designated, one of the hearing officers shall be designated by the Postmaster General as the chairman in such proceeding.

(n) *General authority of hearing officer.* The hearing officer is charged with the duty, and vested with the authority, to conduct a fair, impartial, expeditious, orderly and dignified hearing. He shall have authority to grant continuances, to adjourn proceedings, to examine witnesses, to call for further evidence, and to rule upon the admissibility of evidence and other matters arising in the course of the proceeding, but he shall have no power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding, such power being reserved exclusively to the Postmaster General or person duly designated by him to make final disposition of the proceeding.

(o) *Papers to be supplied to the hearing officer.* Prior to the opening of the hearing, the hearing officer shall be furnished with all pleadings and other formal papers filed in connection with the proceeding.

(p) *Intervention.* Any person, partnership, corporation or association not a party to the proceeding but desiring to intervene shall file application in writing not less than three (3) days before the time fixed for hearing. Such application shall state whom the applicant represents, shall set out with particularity the grounds on which the applicant possesses a legitimate and direct interest, shall specify the extent to which the applicant desires to participate, and shall state what proof, if any, the applicant seeks to establish. The hearing officer shall grant an application to intervene to such extent and upon such terms as he shall deem just and only if he deems it in the public interest and if the interests of justice shall be served thereby: *Provided, however,* That nothing in this section shall be construed to permit the intervention of an individual solely on the ground that he is a subscriber or contributor to or reader of the publication involved.

(q) *Place of hearing.* All hearings shall be held in the Post Office Department Building, 12th Street and Pennsylvania Avenue, Northwest, Washington, D. C., unless otherwise ordered by the hearing officer.

(r) *Continuances and extensions.* (1) Applications for continuances of the hearing, and for extensions of time to file formal documents which are made prior to the filing of the hearing officer's report, shall be filed with the Docket Clerk who shall transmit the same to the assigned hearing officer. Continuances and extensions will be granted only for substantial cause shown, and then only for a short period.

(2) Applications for extensions of time to file appeal briefs or other documents in support of any appeal from the hearing officer's report and recommendation shall be delivered to the Docket Clerk who shall request a ruling thereon from the duly authorized departmental officer and shall promptly notify the applicant of the granting or denial thereof as he shall direct.

(s) *Failure of petitioner or respondent to appear.* Failure of the petitioner or respondent upon which a show cause order has been duly served, to appear at the time and place fixed for hearing may be deemed to be a waiver of the right to a hearing and as authorizing the Postmaster General or his duly authorized representative forthwith to issue an order granting, denying, suspending, annulling, or revoking the second-class mailing privileges of the publication involved.

(t) *Order of procedure.* The petitioner shall open the proceedings and shall proceed to offer proof in support of the petition upon the issues in the case and relevant to the question as to whether the prayers of the petition shall be granted or denied. Thereafter, the respondent may introduce its evidence; rebuttal evidence in behalf of the petitioner may be received.

(u) *Transcript of record.* Hearings shall be stenographically reported by a contract reporter of the department under the supervision of the assigned hearing officer and a Transcript thereof shall be made which shall be a part of the record of the proceeding. Transcripts of hearing will be supplied by the official reporter at the prescribed rates, except that if the hearing is private transcripts shall be supplied only to the parties and to such other persons as may be designated by the hearing officer.

(v) *Evidence.* (1) Except as otherwise provided in the rules of practice in this subpart, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern: *Provided, however,* That such rules may be relaxed to such extent as the hearing officer may deem proper to insure an adequate and fair hearing. Irrelevant, immaterial or repetitious evidence shall be excluded by the hearing officer.

(2) The testimony of witnesses shall be under oath or affirmation and witnesses shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(3) Agreed statements of fact may be received in evidence.

(4) Upon motion duly made at the hearing, official notice or knowledge may be taken of all matters of which judicial notice or knowledge may be taken by the Federal Courts.

(5) Affidavits containing opinions or statements of an affiant will not be received in evidence.

(6) Objections to the admission of evidence shall include a brief statement of the grounds thereof. Formal exceptions to the rulings of the hearing examiner are unnecessary.

(7) At any time prior to the filing of his report, the hearing officer may, for good cause shown, reopen the case for the reception of further evidence.

(w) *Subpenas.* The Post Office Department is not authorized by law to issue subpenas requiring the attendance or testimony of witnesses.

(x) *Witness fees.* The Post Office Department is not authorized by law to pay witness fees or expenses to witnesses for a respondent.

(y) *Depositions.* (1) Not later than the date fixed in the notice of hearing for the filing of respondent's answer, application may be filed with the Docket Clerk by any party to a proceeding for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition; the time when, the place where, and the name and address of the witness whose deposition is desired; the subject matter concerning which the witness is expected to testify; the relevancy thereof; and the name and address of the person before whom the deposition is to be taken.

(2) If the application be granted, the order for the taking of the deposition will specify the time and place therof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(3) The testimony of the witness shall be reduced to writing and shall be subscribed by the witness and certified in the usual form by the deposition officer, and shall be filed as directed in the order.

(4) At the hearing the deposition may be offered in evidence by the party at whose instance it was taken and, if not so offered, may be offered in whole or in part by the adverse party. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts

thereof shall be governed by the rules of evidence.

(5) The party on behalf of whom the deposition is taken must pay all fees required to be paid to witnesses and deposition officer, and must provide an original and one copy of the deposition for the official record and must serve one copy upon the opposing party.

(z) *Oral argument.* (1) At the conclusion of the taking of evidence, the hearing officer, in his discretion, may permit or require oral argument by the parties to the proceeding. Petitioner shall have the right to open and close. The argument may be included in the transcript of the proceedings, if deemed by the hearing officer important and useful in preparing his report and recommendation.

(2) Requests for permission to present oral argument on exceptions to the hearing officer's report shall be made in writing and filed with the Docket Clerk, and shall be granted or denied in the discretion of the Postmaster General or the officer acting in his behalf; provided that the Postmaster General or such officer may by order require the parties to present oral argument upon such points as he shall designate in his order.

(aa) *Compromises.* Any party to a proceeding (except intervenors) may submit in writing an offer of settlement of the controversy which shall be filed with the Docket Clerk and simultaneously served upon the opposing party or his attorney of record. If a settlement is effected, a copy of the agreement shall be filed with the Docket Clerk by or in behalf of the Division of Classification and the hearing officer shall then order discontinuance of the proceedings.

(bb) *Proposed findings and conclusions.* (1) Each party to a proceeding, except those who fail to answer the complaint or having answered fail to appear at the hearing, may submit proposed findings of fact, conclusions of law and supporting reasons: *Provided, however,* That the hearing officer may require parties to any proceeding to submit proposed findings of fact and conclusions of law and supporting reasons.

(2) The hearing officer shall specify the date within which such proposed findings of fact, conclusions of law and supporting reasons must be submitted by the parties. If not submitted by such date they will not be included in the record or given consideration unless additional time is allowed.

(3) The hearing officer may require the parties to submit orally or in writing proposed findings of fact and conclusions of law and argument in support thereof before the close of the hearing.

(4) Except when made before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record (with appropriate citations to the transcript or exhibit relied upon) supporting the conclusions proposed by the party filing same. Each proposed conclusion shall be separately stated.

(cc) *Hearing officer's report.* (1) Where the respondent, having filed an answer, fails to appear at the hearing, the hearing officer shall receive such proof as he may deem proper in support of the allegations of the petition and relevant to the issues, and shall make and file a report and recommendation which may be adopted, rejected or modified by the Postmaster General or the departmental officer duly authorized to act in his behalf.

(2) In contested cases, the hearing officer shall promptly prepare a report which shall be based upon the relevant evidence introduced at the hearing and upon the arguments and briefs of the parties, and shall set forth the hearing officer's findings of fact, conclusions of law and his recommendations upon the prayers of the petition. If more than one hearing officer conducted the hearings, each shall sign the report if he agrees therewith; otherwise he shall submit a separate report. The hearing officer's report and recommendation shall be served upon each party to the proceeding by the Docket Clerk.

(dd) *Exceptions to hearing officer's report and recommendations.* (1) Any party of record in the proceeding, except those who failed to answer the petition and show cause notice, or having answered fail to appear at the hearing, may file exceptions to the hearing officer's report and recommendations. Said exceptions shall be addressed to the Postmaster General or his duly authorized representative.

(2) Such exceptions must be filed within 15 days from the date of the mailing to the appellant of a copy of the hearing officer's report. Any party who failed to file exceptions within 15 days as aforesaid shall be deemed to have abandoned his right to except to hearing officer's report.

(3) It shall contain the following matter in the order indicated below. Matter which is not presented in a brief will not be considered.

(i) A subject index of the matters presented, with page references; a table of cases (alphabetically arranged); list of statutes and text books cited with page references.

(ii) A concise abstract or statement of the case.

(iii) (a) Exceptions to specific findings and conclusions of law or discretion in the report and recommendations; exceptions to the failure of the report to include other findings or conclusions of fact, law or discretion, and exceptions to any prejudicial error in procedure.

(*b*) Exceptions may also set forth proposed findings of fact, conclusions of law or discretion, together with a proposed order with a request that they be substituted for and adopted in place of those to which exception is taken, with specific reference to the parts of the record and the legal or other authorities relied upon.

(iv) Argument clearly setting forth points of fact and of law relied upon in support of each exception taken, together with specific references to the parts of the record and the legal or other authorities relied upon.

(4) Where briefs containing proposed findings of fact, conclusions of law and supporting reasons have been submitted to the hearing officer in the manner herein provided, exceptions to the examiner's findings and recommendations shall be based on and limited to matters which have been presented to the hearing examiner in the aforesaid briefs.

(5) The original and three copies of all exceptions briefs shall be filed with the Docket Clerk.

(6) The opposing party shall be furnished with a copy of exceptions and shall be granted a reasonable time to reply thereto, which shall not be less than 15 days in any case.

(7) Unless leave be granted, no exceptions briefs shall exceed 50 printed or 100 typewritten pages.

(8) When exceptions are filed as hereinbefore specified, the Docket Clerk shall promptly transmit the record of the proceedings to the Postmaster General or to the officer duly authorized to make the final departmental decision in his behalf.

(ee) *Decision.* Upon the basis of the record in the proceeding, the parties briefs, exhibits, the hearing officer's report, findings and recommendations, the Postmaster General, or the departmental officer duly authorized to make a final departmental decision, shall issue an order, granting, suspending or annulling or revoking the second-class mailing privileges of the publication involved and specifying the effective date of such order. He may accompany such order with a statement of the reasons or opinion upon which the order is based.

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369)

[SEAL] ABE MCGREGOR GOFF,
The Solicitor.

JANUARY 3, 1956.

[F. R. Doc. 56-102; Filed, Jan. 5, 1956; 8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 522]

HOSIERY INDUSTRY

EMPLOYMENT OF LEARNERS

Pursuant to section 14 of the Fair Labor Standards Act of 1938 (Sec. 14, 52 Stat. 1068, as amended; 29 U. S. C. 214), the Administrator has heretofore issued regulations for the employment of learners in the hosiery industry (20 F. R. 2306) at wages lower than the wage applicable under section 6 of the act.

Such regulations have been reexamined in the light of the Fair Labor Standards Amendments of 1955 (Pub. Law 381, 84th Cong., 1st Sess.) and recent changes in wage levels. All information presently available to me indicates that it is necessary to increase the subminimum rates presently authorized for

learner occupations in the seamless branch of the hosiery industry from 67½ cents and 72½ cents an hour to 80 cents and 87½ cents an hour, respectively, and to increase the subminimum rates presently authorized for learner occupations in the full-fashioned branch of that industry from 70 cents and 72½ cents to 85 cents and 92½ cents an hour, respectively. There also appears to be a need to increase the subminimum rates presently authorized for workers who have had partial or full training in any authorized learner occupation and who are transferred to any other learner occupation from not less than 72½ cents an hour to not less than 87½ cents an hour in the seamless branch and to not less than 92½ cents an hour in the full-fashioned branch.

It is proposed that these amendments shall be made effective March 1, 1956, the effective date of the Fair Labor Standards Amendments of 1955. However, applications under the amended regulations for learner certificates to become effective March 1, 1956, would be entertained by the Administrator prior to such date.

Accordingly, notice is hereby given pursuant to the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001) that under the authority provided in section 14 of the Fair Labor Standards Act of 1938 (section 14, 52 Stat. 1068; 29 U. S. C. 214), the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to amend Part 522, as follows:

1. Paragraph (a) of § 522.43 as it relates to payment of subminimum rates to learners in the seamless branch of the hosiery industry is amended by deleting "67½ cents" wherever this sum appears and inserting in lieu thereof "80 cents", and by deleting "72½ cents" wherever this sum appears and inserting in lieu thereof "87½ cents".

2. Paragraph (a) of § 522.43 as it relates to payment of subminimum rates to learners in the full-fashioned branch of the hosiery industry is amended by deleting "70 cents" wherever this sum appears and inserting in lieu thereof "85 cents", and by deleting "72½ cents" wherever this sum appears and inserting in lieu thereof "92½ cents".

3. Paragraph (d) of § 522.43 is amended by deleting the words "not less than 72½ cents an hour" wherever they appear and inserting in lieu thereof the words "not less than 87½ cents an hour in the seamless branch and not less than 92½ cents an hour in the full-fashioned branch".

Prior to final adoption of the proposed amendments, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., on or before January 21, 1956.

Signed at Washington, D. C., this 30th day of December 1955.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-98; Filed, Jan. 5, 1956; 8:48 a. m.]

[29 CFR Part 522]

CIGAR INDUSTRY

EMPLOYMENT OF LEARNERS

Pursuant to Section 14 of the Fair Labor Standards Act of 1938 (Sec. 14, 52 Stat. 1068, as amended; 29 U. S. C. 214), the Administrator has heretofore issued regulations for the employment of learners in the cigar industry (20 F. R. 2308) at wages lower than the wage applicable under section 6 of the act.

Such regulations have been reexamined in the light of the Fair Labor Standards Amendments of 1955 (Pub. Law 381, 84th Cong., 1st Session), recent changes in wage levels, and administrative experience in their operation. All relevant information presently available to me indicates that it is necessary to increase the subminimum rates presently authorized for learner occupations in the cigar industry from 65 and 70 cents an hour to 80 and 87½ cents an hour, respectively. It also appears desirable to liberalize somewhat the provisions relating to the number or proportion of learners that may be employed to meet normal turnover. The proposed amendments would provide that the number of learners which any employer may be authorized to employ by any special certificate issued to meet normal labor turnover needs shall not exceed on any one workday 10 percent of the total production workers in the plant. The present regulations authorize employment of 10 percent of the number of workers engaged in particular occupations on any workday as learners. It is further proposed that in plants employing less than 100 workers, a maximum of 10 learners may nevertheless be authorized.

It is proposed that these amendments shall be made effective March 1, 1956, the effective date of the Fair Labor Standards Amendments of 1955. However, applications under the amended regulations for certificates to become effective March 1, 1956, would be entertained by the Administrator prior to such date.

Accordingly, notice is hereby given pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) that under the authority provided in section 14 of the Fair Labor Standards Act of 1938, as amended (section 14, 52 Stat. 1068; 29 U. S. C. 214), the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to amend Part 522, as follows:

1. Paragraph (a) of § 522.82 is amended to read as follows:

(a) Special certificates may be issued to meet normal turnover needs authorizing the employment of learners in any authorized learner occupation not to exceed on any one workday more than ten percent of the total number of production factory workers in the plant: *Provided, however,* That in plants employing less than 100 production workers, a maximum of ten learners may be authorized.

2. Paragraph (a) of § 522.85 is amended by deleting "65 cents" wherever this sum appears and inserting in lieu thereof "80 cents" and by deleting "70 cents" wherever this sum appears and inserting in lieu thereof "87½ cents".

Prior to final adoption of the proposed amendments, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., on or before January 21, 1956.

Signed at Washington, D. C., this 30th day of December 1955.

NEWELL BROWN,
Administrator,
Wage and Hour Division.

[F. R. Doc. 56-97; Filed, Jan. 5, 1956; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 973]

[Docket No. AO-178-A6]

MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

DECISION WITH RESPECT TO TENTATIVE MARKETING AGREEMENT AND TO PROPOSED ORDER AMENDING THE ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Minneapolis, Minnesota, on May 17-19, 1955, pursuant to notice thereof which was published in the FEDERAL REGISTER (20 F. R. 2933) upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on October 14, 1955, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision. The said decision containing notice of opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on October 20, 1955 (20 F. R. 7905).

Within the period provided therefor, exceptions to certain of the findings, conclusions and actions recommended by the Deputy Administrator were filed by several of the cooperative associations which furnish milk to this marketing area. In arriving at the findings, conclusions and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

To the extent that the suggested findings and conclusions proposed by interested parties are in conflict with the findings and conclusions contained herein, the specific or implied requests to make such findings and to reach such

conclusions, are denied on the basis of the facts found and stated in connection with the conclusions herein set forth.

The material issues, findings and conclusions, and general findings of the recommended decision (20 F. R. 7905; Doc. 55-8505) are hereby approved and adopted as the issues, findings and conclusions, and general findings of this decision as if set forth in full herein subject to the following modifications described with respect to Federal Register, Document 55-8505, 20 F. R. 7905:

1. On page 7906, column 3, delete the first 2 sentences in the paragraph beginning with "(a) *Distributing Plants*" and substitute therefor the following:

(a) *Distributing Plants.* A "distributing plant" should be designated as a pool plant if the quantity of milk distributed on routes in the marketing area as Class I milk in any month is equal to 15 percent or more of the total Class I disposition of such plant. A distributing plant should meet the further qualification that half or more of its total supply of milk approved for fluid use be disposed of as Class I milk whether inside or outside the marketing area.

2. Following the first complete paragraph in column 1, page 7907 add the following:

"Route" should be defined as the delivery of a Class I product to any wholesale or retail stop including state or municipal institutions but excluding deliveries to milk processing plants.

3. Immediately preceding the paragraph beginning "3. *Class prices*" appearing in column 2, page 7907, insert the following paragraph:

The name of the Hastings Cooperative Creamery of Hastings, Minnesota, should be eliminated from the list of plants appearing in § 973.7 on page 7913. The Hastings Cooperative Creamery is not a supply plant for the Minneapolis-St. Paul marketing area, but rather it is a distributing plant since it processes and bottles milk for distribution in the area as Class I milk. Although this milk is distributed in the area by vendors rather than by the cooperative itself, the disposition of such milk in the area is considered to be disposition on a route.

4. Delete the first complete paragraph appearing in column 2 on page 7908 and substitute therefor the following:

The record evidence fails to provide sufficient basis for fixing the producer butterfat at a level equal to the weighted average value of the butterfat in the pool according to its utilization. Although this method of establishing the butterfat differential to producers is sound in principle, the adoption of this method should be postponed until more substantial evidence in support of it is presented at a hearing. In the past, the producer butterfat differential has been approximately equal to the value of butterfat in Class II, and it is concluded that it should be continued at the same level as the butterfat differential to handlers for Class II milk.

5. Delete the second sentence in the first complete paragraph appearing in column 3, page 7911, and substitute therefor the following:

Under the present individual-handler pool the major cooperative association in the market has blended its returns to all its producers. In paying its producers it has averaged the Class I value of the milk which it disposed of to other handlers with the value of the milk manufactured in its own plants in arriving at the price to be paid to its members. It was able to begin computing its payroll as soon as the reports from handlers had been received. Under a market-wide pool, however, the cooperative association will pay its producers at the uniform price announced by the market administrator. The association feels it will be impossible for it to compute its payroll and complete payments to producers between the 14th of the month when the uniform price would be announced and the 20th of the month, which has been the date on which handlers are required to make payments to producers.

The association suggested shortening the time allowed for the filing of handler reports and extending the final date on which payments to producers may be made. The 6 days permitted for the issuance of producer checks in the recommended decision is a longer period of time than is allowed by most orders in some of which there are handlers who issue checks to as many or more producers than does the cooperative association involved here. It would be unfair to producers to delay the date of settlement for their milk beyond the earliest date consistent with normal office efficiency. Likewise, it is necessary that sufficient time be allowed handlers for the completion of their reports and the market administrator for the computation of the uniform price. After a further review of the record evidence, however, it is concluded that the date for the filing of handler reports could be changed to the 8th day of the month and the date for the announcement of the uniform price changed to the 13th day of the month. A delay of one additional day in the date on which payments must be made to producers would not have serious adverse effects upon producers. It is concluded, therefore, that final settlement with producers should be made not later than the 21st of the month.

6. In line 4 of column 3, page 7911, change "9th" to "8th".

7. In line 7 of column 3, page 7911, change "14th" to "13th".

Determination of representative period. The month of September 1955 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area in the manner set forth in the attached amending order is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such order.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area" and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order amending the order, as amended.

This decision filed at Washington, D. C., this 30th day of December 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] as Amended, Regulating the Handling of Milk in the Minneapolis-St. Paul, Minn., Marketing Area

Sec.
973.0 Findings and determinations.

DEFINITIONS

973.1 Act.
973.2 Secretary.
973.3 Department of Agriculture.
973.4 Minneapolis-St. Paul, Minnesota, marketing area.
973.5 Handler.
973.6 Route.
973.7 Producer.
973.8 Pool plant.
973.9 Nonpool plant.
973.10 Person.
973.11 Producer-handler.
973.12 Cooperative association.
973.13 Market administrator.
973.14 Delivery period.
973.15 Producer milk.
973.16 Other source milk.
973.17 Base milk.
973.18 Excess milk.

MARKET ADMINISTRATOR

973.20 Designation.
973.21 Powers.
973.22 Duties.

REPORTS, RECORDS, AND FACILITIES

973.30 Delivery period reports of receipts and utilization.
973.31 Reports of producer-handlers.
973.32 Reports as to producers and cooperative associations of producers.
973.33 Records and facilities.
973.34 Retention of records.

CLASSIFICATION

973.40 Skim milk and butterfat to be classified.
973.41 Classes of utilization.
973.42 Responsibility of handlers and reclassification of milk.
973.43 Transfers.
973.44 Computation of milk in each class.
973.45 Allocation of skim milk and butterfat classified.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

MINIMUM PRICES

Sec.
973.50 Class prices.
973.51 Basic formula price.
973.52 Supply and demand ratio.
973.53 Class I price.
973.54 Class II price.
973.55 Location differential to handlers.
973.56 Butterfat differentials to handlers.
973.57 Emergency price provisions.

APPLICATION OF PROVISIONS

973.60 Application to producer-handlers.
973.61 Producer-handlers.
973.62 Handlers subject to other Federal orders.
973.63 Other source milk diverted by a cooperative association.
973.64 Payment for overage.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

973.70 Computation of the value of milk received from producers.
973.71 Computation of uniform price.
973.72 Computation of price for base milk.
973.73 Notification of handlers.

BASE RULES

973.75 Determination of base for each producer.
973.76 Establishing a new base.
973.77 Base rules.

PAYMENTS FOR MILK

973.80 Time and method of payment.
973.81 Butterfat differential to producers.
973.82 Location differential to producers.
973.83 Producer-settlement fund.
973.84 Payments to the producer-settlement fund.
973.85 Payments out of the producer-settlement fund.
973.86 Adjustment of accounts.
973.87 Adjustment of errors in payments to producers.
973.88 Statement to producers.

MISCELLANEOUS

973.90 Expense of administration.
973.91 Marketing services.
973.92 Termination of obligation.
973.93 Agents.

EFFECTIVE TIME, SUSPENSION, AND TERMINATION

973.100 Effective time.
973.101 Suspension or termination.
973.102 Continuing power and duty of the market administrator.
973.103 Liquidation after suspension or termination.

AUTHORITY: §§ 973.0 to 973.103 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 973.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is hereby found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the expenses of the market administrator for the maintenance and functioning of such agency will require the payment monthly, as his pro rata share of such expenses, by each handler who operates a pool plant of 1.5 cents per hundredweight or such amount not exceeding 1.5 cents per hundredweight as the Secretary may prescribe with respect to all milk received by him during the month from producers (including such handlers own production) and with respect to other source milk received by him during such month which is classified as Class I, and by each handler who operates a nonpool plant of 1.5 cents per hundredweight or such amount not exceeding 1.5 cents per hundredweight as the Secretary may prescribe with respect to all Class I milk disposed of by him within the marketing area during such month.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby amended; and the aforesaid order, as amended, is hereby further amended to read as follows:

DEFINITIONS

§ 973.1 *Act.* "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 973.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 973.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency as may be authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 973.4 *Minneapolis-St. Paul, Minnesota, marketing area.* "Minneapolis-St. Paul, Minnesota, marketing area" hereinafter called the "marketing area" means the territory within the corporate limits of the cities of Minneapolis, Robbinsdale, and Wayzata in Hennepin County; Columbia Heights in Anoka County; St. Paul and White Bear in Ramsey County; West St. Paul and South St. Paul in Dakota County; together with the following townships and all villages therein: Brooklyn, Crystal, St. Anthony, Golden Valley, St. Louis Park, Orono, Excelsior, Minnetonka, Edina, Bloomington, and Richfield in Hennepin County; Fridley in Anoka County; Mounds View, Rose, White Bear, and New Canada in Ramsey County; Grant, Oakdale, Woodbury, Cottage Grove, and Newport in Washington County; and Mendota, West St. Paul, and Inver Grove in Dakota County; all in the State of Minnesota.

§ 973.5 *Handler.* "Handler" means (a) Any person in his capacity as the operator of a pool plant; (b) any person in his capacity as the operator of a plant, which receives its supply of milk from pool plants, and at which milk is processed and packaged and disposed of as Class I milk within the marketing area; (c) any person in his capacity as the operator of a nonpool plant from which Class I milk is disposed of in the marketing area on routes; and (d) a cooperative association with respect to the milk of its member-producers which it causes to be delivered to either a pool plant or a nonpool plant for the account of such association. This definition shall not apply to a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities.

§ 973.6 *Route.* "Route" means any delivery (including a sale from a plant store or from vending machines) of any Class I product to a wholesale or retail stop, including a state or municipal institution, but excluding any sale to a milk processing plant or to a wholesale processor of foods.

§ 973.7 *Producer.* "Producer" means any person, other than a producer-handler who produces milk which is received as Grade A milk at a pool plant directly from the farm of such producers or which is caused by a handler to be diverted as Grade A milk to a nonpool plant.

§ 973.8 *Pool plant.* "Pool plant" means any plant meeting the conditions of paragraphs (a) or (b) of this section, except the plant of a handler exempted in § 973.62.

(a) A plant where milk is processed or packaged and from which not less

than 15 percent of its total disposition of Class I milk during the delivery period is on a route(s) in the marketing area: *Provided*, That the total quantity of Class I milk disposed of from such plant during the delivery period, either inside or outside the marketing area, is equal to 40 percent or more of the total supply of Grade A milk received at the plant from dairy farmers or from other plants in any of the months of January through June or to 60 percent in any of the months of July through December; or

(b) (1) Any plant which has, during any delivery period, delivered to a pool plant(s) described in paragraph (a) of this section an amount of milk equal to 50 percent or more of its dairy farm supply of milk: *Provided*, That if, during each of the delivery periods of August through November, such plant has delivered to a pool plant(s) described in paragraph (a) of this section 50 percent or more of its dairy farm supply, it shall upon written application to the market administrator on or before December 31 of any year, be designated as a pool plant through the following July 31.

(2) In the case of any plant from which producers, whose milk was received at such plant on more than 45 days during the months of April, May, and June, are diverted to a pool plant described in paragraph (a) of this section during any of the months of August, September, October, or November, the milk of such producers, for the purposes of this paragraph, shall be considered as having been received at the plant at which it was received during April, May, and June, and as having been shipped from thence to the plant described in paragraph (a) of this section. Such diversion shall be evidenced by the producers being listed as diverted producers on the payroll reports submitted pursuant to § 973.32 and by appropriate notation on the reports of receipts and utilization submitted pursuant to § 973.30.

(3) From the effective date hereof until August 1, next following such effective date the following plants shall be pool plants in addition to any plants which may qualify as pool plants pursuant to paragraphs (a) and (b) of this section:

Baldwin Cooperative Creamery, Baldwin, Wis.
Buffalo Cooperative Creamery, Buffalo, Minn.
Butternut Cooperative Creamery, Luck, Wis.
Ellsworth Cooperative Creamery, Ellsworth, Wis.
Rock Ridge Cooperative Creamery, Dresser, Wis.
Twin City Milk Producers Association, Anoka, Minn.
Twin City Milk Producers Association, Elk River, Minn.
Twin City Milk Producers Association, Farmington, Minn.
Twin City Milk Producers Association, Lake Elmo, Minn.
Twin City Milk Producers Association, Minneapolis, Minn.
Twin City Milk Producers Association, Northfield, Minn.
Twin City Milk Producers Association, River Falls, Wis.
Twin City Milk Producers Association, Watertown, Minn.
Wisconsin Cooperative Dairies, Inc., Menomonie, Wis.

§ 973.9 *Nonpool plant.* "Nonpool plant" means any milk processing plant during any delivery period in which it does not meet the requirements of a pool plant as defined in § 973.8.

§ 973.10 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 973.11 *Producer-handler.* "Producer-handler" means any person who both produces milk and is a handler and who receives no milk directly from the farms of other producers and not more than 50,000 pounds of milk (3.5 percent butterfat equivalent) during the delivery period from other handlers which are cooperative associations: *Provided*, That the maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging, and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 973.12 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

§ 973.13 *Market administrator.* "Market administrator" means the person designated pursuant to § 973.20 as the agency for the administration of this part.

§ 973.14 *Delivery period.* "Delivery period" means a calendar month or the portion thereof during which this part is in effect.

§ 973.15 *Producer milk.* "Producer milk" means any skim milk and butterfat contained in milk produced by one or more producers under the conditions set forth in § 973.7.

§ 973.16 *Other source milk.* "Other source milk" means all skim milk and butterfat other than that skim milk and butterfat contained in producer milk.

§ 973.17 *Base milk.* "Base milk" means producer milk received by a handler during any of the months of January through June, which is not in excess of such producer's daily average base computed pursuant to § 973.75, multiplied by the number of days in such month on which the milk was produced.

§ 973.18 *Excess milk.* "Excess milk" means producer milk received by a handler during any of the months of January through June which is in excess of base milk received from such producer during such months.

MARKET ADMINISTRATOR

§ 973.20 *Designation.* The agency for the administration of this part shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 973.21 *Powers.* The market administrator shall:

(a) Administer the terms and provisions of this part;

(b) Receive, investigate, and report to the Secretary complaints of violations of the terms and provisions of this part;

(c) Recommend to the Secretary amendments to this part; and

(d) Make rules and regulations to effectuate the terms and provisions of this part.

§ 973.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 973.90, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office, except as provided by § 973.91;

(c) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

(d) Unless otherwise directed by the Secretary publicly disclose within 30 days after such nonperformance becomes known to the market administrator, the name of any person who, within 20 days after the date on which he is required to perform such acts, has not (1) made reports pursuant to § 973.30 or (2) made payments pursuant to §§ 973.80, 973.84, 973.86, and 973.87; and may at any time thereafter so disclose any such name if authorized by the Secretary.

(e) Verify each handler's records and payments by inspection of such handler's records and the records of any other person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(f) Prepare and disseminate to the public such statistics and information concerning the operations under this part as he deems advisable and as do not reveal confidential information;

(g) On or before the 5th day of each delivery period, mail to all handlers and make public announcement of the Class I price computed pursuant to § 973.53, and the butterfat differential computed pursuant to § 973.56 (a) for the then current delivery period, and the Class II price computed pursuant to § 973.54 and the butterfat differential computed pursuant to § 973.56 (b) for the preceding delivery period; and

(h) On or before the 13th day after the end of each delivery period, mail to all handlers and make public announcement of the uniform price computed pursuant to § 973.71, or the price for base

milk computed pursuant to § 973.72, whichever is applicable.

REPORTS, RECORDS, AND FACILITIES

§ 973.30 *Delivery period reports of receipts and utilization.* (a) On or before the 8th day of each delivery period, each handler, except a producer-handler, who operates a pool plant or whose supply of milk is received from a pool plant(s), shall report to the market administrator with respect to all skim milk and butterfat, except that in nonfluid milk products disposed of in the form in which received without further processing or packaging, received by him at each pool milk plant during the preceding delivery period in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and the quantities of butterfat contained in (or used in the production of) receipts from producers (including his own production), producer-handlers, pool plants and nonpool milk plants and the sources thereof,

(2) The utilization of all skim milk or butterfat disposed of,

(3) The quantities of skim milk and butterfat on hand at the beginning and end of each delivery period, and

(4) Such other information with respect to all such receipts and utilization as the market administrator may prescribe; and

(b) On or before the 8th day after the end of each delivery period each handler who operates a nonpool plant shall report to the market administrator his total receipts and utilization of milk received from farmers who produce Grade A milk, his total disposition within the marketing area of Class I milk, and such other information as the market administrator may require.

§ 973.31 *Reports of producer-handlers.* Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 973.32 *Reports as to producers and cooperative associations of producers.* Each handler shall, on or before the last day of each delivery period, submit to the market administrator such handler's producer payroll for the preceding delivery period which shall show for each producer or cooperative association of producers (a) the total pounds of milk delivered with the average butterfat test thereof and (b) the net amount of the payment to each producer or to each cooperative association of producers together with the prices, deductions and charges involved.

§ 973.33 *Records and facilities.* Each handler shall permit the market administrator to make such examinations of his operations, equipment, and facilities as the market administrator deems necessary and he shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as the market administrator deems necessary to verify or to establish the correct data with respect to (a) the receipts and utilization in whatever form of all skim milk and butterfat received, including nonfluid milk products disposed of in the form in which received without further processing or packaging; (b) the weights and tests for butterfat and for other content of all skim milk or butterfat handled; (c) payments to producers and cooperative associations; and (d) the pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each delivery period.

§ 973.34 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records or specified books and records until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 973.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat, except that in nonfluid milk products disposed of in the form in which received without further processing or packaging, received by a handler during each delivery period, shall be classified by the market administrator pursuant to the provisions of §§ 973.41 through 973.45.

§ 973.41 *Classes of utilization.* Subject to the conditions set forth in §§ 973.42 and 973.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat disposed of for consumption in the form of milk, skim milk (including reconstituted skim milk), concentrated milk, buttermilk, flavored milk drinks (except flavored milk drinks in hermetically sealed containers), cream (sweet or sour, including mixtures of cream and milk or skim milk containing less butterfat than the legal standard for cream), and all skim milk and butterfat not specifically accounted for pursuant to paragraph (b) of this section; and

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat stored in a public cold storage warehouse as frozen cream, or disposed of as animal feed, and all skim milk and butterfat used to produce a milk product other than those specified in paragraph (a) of this section.

§ 973.42 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat purchased or received by a handler shall be Class I milk unless the handler who first received such skim milk and butterfat proves to the market administrator that it should be classified otherwise; and

(b) Any skim milk and butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 973.43 *Transfers.* Skim milk or butterfat transferred or diverted in fluid form as milk, skim milk, or cream, by a handler shall be classified as follows:

(a) As Class I milk if transferred or diverted from one pool plant to the pool plant of another handler unless utilization in Class II is mutually indicated to the market administrator in the delivery period reports submitted by both handlers for the delivery period in which such transfer or diversion occurred, but in no event shall the amount classified in either class exceed the total use in such class by the transferee handler: *Provided*, That if either or both handlers have received other source milk, the milk so transferred shall be classified at both plants so as to return the higher class utilization to producer milk;

(b) As Class I milk if transferred in the form of milk, skim milk, or cream to a producer-handler;

(c) As Class I milk if transferred in the form of milk, skim milk, or cream to a nonpool plant located less than 100 miles from the marketing area unless (1) the handler reports to the market administrator on or before the 8th day after the end of the delivery period that such skim milk or butterfat was utilized in Class II, (2) the nonpool plant maintains records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available to the market administrator for purposes of verification, and (3) such nonpool plant had actually used not less than an equivalent amount of skim milk and butterfat in Class II: *Provided*, That, if verification of such records discloses that an equivalent amount of skim milk and butterfat had not been used in Class II, the remaining pounds shall be classified as Class I; and

(d) As Class I milk if transferred or diverted in the form of milk or skim milk or transferred in the form of cream in consumer packages, and as Class II if transferred in the form of cream in bulk, to a purchaser whose plant is located more than 100 miles from the marketing area.

§ 973.44 *Computation of milk in each class.* For each delivery period the market administrator shall correct mathematical and other obvious errors in the delivery period report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for each handler.

§ 973.45 *Allocation of skim milk and butterfat classified.* After computing pursuant to § 973.44, the classification of all skim milk and butterfat received by a handler at his pool plant(s), the market administrator shall determine the classification of milk received from producers in the following manner:

(a) Skim milk shall be allocated as follows:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided*, That, if the pounds of skim milk in other source milk exceed the total pounds of skim milk classified as Class II, an amount equal to the difference shall be subtracted from Class I: *Provided further*, That any other source milk which is classified and priced under another marketing order issued pursuant to the act shall be allocated to Class I before any other source milk is so allocated,

(2) Subtract from the remaining pounds of skim milk in each class, the pounds of skim milk contained in receipts from other pool plants or which have been caused by a cooperative association to be delivered for its account to such handler directly from the farms of its member producers in accordance with its classification as determined pursuant to § 973.43 (a), and

(3) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class II. Any amount in excess of that in Class II shall be subtracted from Class I. The amounts so subtracted shall be called overage;

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section; and

(c) Determine the weighted average butterfat content of the milk received from producers and allocated to Class I milk and Class II milk pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 973.50 *Class prices.* Each handler shall pay at the time and in the manner set forth in §§ 973.80 to 973.83 not less than the prices set forth in §§ 973.53 and 973.54 for all milk received during each delivery period from producers at such handler's pool plant(s).

§ 973.51 *Basic formula price.* The basic price to be used in determining the Class I price shall be the price for Class II milk computed pursuant to § 973.54 for the preceding delivery period or that computed from the formulas set forth in paragraphs (a) and (b) of this section, whichever is the highest.

(a) The average of the basic or field prices ascertained to have been paid for milk of 3.5 percent butterfat content received during the preceding delivery period at the following plants or places for which prices are reported to the market administrator by the listed companies or by the Department of Agriculture.

Companies and Locations

Borden Company, Mount Pleasant, Mich.
Carnation Company, Sparta, Mich.
Pet Milk Company, Hudson, Mich.
Pet Milk Company, Wayland, Mich.
Pet Milk Company, Coopersville, Mich.
Borden Company, Orfordville, Wis.
Borden Company, New London, Wis.
Carnation Company, Richland Center, Wis.
Carnation Company, Oconomowoc, Wis.
Pet Milk Company, New Glarus, Wis.
Pet Milk Company, Belleville, Wis.
White House Milk Company, Manitowoc, Wis.
White House Milk Company, West Bend, Wis.

(b) (1) Multiply by 6 the simple average of the daily wholesale selling price (using the midpoint of any price range as one price) per pound of Grade AA (93-score) bulk creamery butter at New York as reported by the Department of Agriculture during the preceding delivery period; (2) add 2.4 times the weekly prevailing price of "Cheddars" during the preceding delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, as reported by the Department of Agriculture; (3) divide the resulting sum by 7; (4) add 30 percent thereof; and (5) multiply the resulting sum by 3.5.

§ 973.52 *Supply and demand ratio.* On or before the 5th day of each delivery period the market administrator shall make the following computations based upon information obtained from handlers' reports of receipts and utilization:

(a) Determine the total receipts of milk from all producers (including receipts from own farm production) during the second and third preceding months;

(b) Determine the total pounds of milk actually disposed of from pool plants as Class I (excluding shrinkage and unaccounted for milk, but converting cream to its 3.5 percent milk equivalent) during the same two delivery periods; and

(c) Divide the amount obtained in paragraph (b) of this section by the amount obtained in paragraph (a) of this section and adjust to the nearest full percentage point. The resulting percentage shall be known as the "current supply-demand ratio".

§ 973.53 *Class I price.* Subject to the differentials provided in §§ 973.55 and 973.56 (a), the price for Class I milk shall be the basic price computed pursuant to § 973.51, plus 70 cents for the delivery periods of January through April, plus 60 cents for May and June, plus $1.10 for July through November, and plus 80 cents for December: *Provided*, That whenever the current supply-demand ratio varies from that set forth in the table below, the Class I price shall be increased or decreased 2 cents for each 2 full percentage points that the current supply-demand ratio is above or below that set forth in the table, but shall not be increased or decreased more than 24 cents because of the supply-demand ratio:

Delivery periods used in computing current supply-demand ratio	Percentage	Delivery period to which applicable
January–February	64	April.
February–March	62	May.
March–April	62	June.
April–May	61	July.
May–June	61	August.
June–July	70	September.
July–August	86	October.
August–September	97	November.
September–October	97	December.
October–November	91	January.
November–December	82	February.
December–January	71	March.

§ 973.54 *Class II price.* Subject to the differential computed pursuant to § 973.56 (b) the price for Class II milk shall be that computed by the market administrator as follows: (a) Multiply by 4.24 the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter at New York as reported by the Department of Agriculture during the delivery period; (b) multiply by 8.2 the weighted average of carlot prices for spray process nonfat dry milk solids, for human consumption f. o. b. manufacturing plants in the Chicago area, as published by the Department of Agriculture for the period from the 26th day of the immediately preceding period through the 25th day of the current delivery period; (c) add into one sum the amounts obtained in (a) and (b) of this section; and (d) subtract 75.2 cents therefrom.

§ 973.55 *Location differential to handlers.* (a) With respect to producer milk purchased or received at a pool plant and which is classified as Class I milk, the price per hundredweight computed pursuant to § 973.50 (a) shall be reduced by the amount indicated below for the distance that such plant is located from the Minnesota Transfer Viaduct over University Avenue in St. Paul. Such deduction shall be based on the airline mileage as computed by the market administrator.

Location of Plant and Amount of Deduction

	Cents
0 to 15 miles	0
15 to 20 miles	8
20 to 30 miles	10
30 to 40 miles	12
40 to 50 miles	14
50 to 60 miles	15
60 to 70 miles	16
70 miles or over	[1] 17

[1] Plus an additional 1-cent for each 10 miles or fraction thereof in excess of 80 miles.

§ 973.56 *Butterfat differentials to handlers.* (a) If the average butterfat content of the milk disposed of by any handler as Class I milk is more or less than 3.5 percent, there shall be added to the Class I price per hundredweight computed pursuant to § 973.53 (a) for each one-tenth of 1 percent that the average butterfat content of such Class I milk is above 3.5 percent or shall be subtracted for each one-tenth of 1 percent that the average butterfat content of such Class I milk is below 3.5 percent, an amount computed by the market administrator as follows: To the average wholesale price per pound of Grade AA (93-score) butter at New York as reported by the Department of Agriculture for the preceding delivery period add 25 percent during the delivery periods of December through June, and 35 percent during the remaining delivery periods, and divide the resulting sum by 10; and

(b) If the average butterfat content of the milk disposed of by any handler as Class II milk is more or less than 3.5 percent, there shall be added to the Class II price per hundredweight computed pursuant to § 973.54 (b) for each

one-tenth of 1 percent that the average butterfat content of such Class II milk is above 3.5 percent or shall be subtracted for each one-tenth of 1 percent that the average butterfat content of such Class II milk is below 3.5 percent an amount computed by the market administrator as follows: To the average wholesale price per pound of Grade AA (93-score) butter at New York as reported by the Department of Agriculture for the delivery period add 21.14 percent and divide the sum obtained by 10.

§ 973.57 *Emergency price provisions.* Whenever the provisions of this order require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose and the specified price is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the prices specified.

APPLICATION OF PROVISIONS

§ 973.60 *Application to producer-handlers.* Sections 973.40 to 973.45, 973.50 to 973.57, 973.62 to 973.64, 973.70 to 973.73, 973.75 to 973.77, 973.80 to 973.88, and 973.90 to 973.92 shall not apply to the handling of milk by producer-handlers.

§ 973.61 *Producer-handlers.* Handlers shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of their qualifications as producer-handlers pursuant to § 973.11, as of the effective date of this part, and they shall furnish evidence of subsequent changes made in the manner of producing or distributing milk that affect their qualifications as producer-handlers; such verification by the market administrator shall be made within 15 days of the receipt of the evidence and shall be retroactive to the effective date of this part in cases verified within 45 days of such effective date and shall be effective retroactively to the first day of the delivery period during which verification is made in subsequent cases.

§ 973.62 *Handlers subject to other Federal orders.* In the case of a handler whose plant is fully regulated by another milk marketing order issued pursuant to the act, the provisions of this order shall not apply except that such handler, with respect to his total receipts and utilization of skim milk and butterfat, shall make reports to the market administrator at such time and in such manner as the market administrator may require, and shall allow the market administrator to verify such reports in accordance with § 973.33.

§ 973.63 *Other source milk diverted by a cooperative association.* Other source milk caused by a cooperative association to be delivered to a pool plant for its account from a nonpool plant shall be considered to have been first received by such cooperative association.

§ 973.64 *Payment for overage.* In computing the value of the milk of any handler (including a handler whose sole source of supply is other pool plants), if any skim milk has been subtracted pursuant to § 973.45, or if any butterfat has been similarly subtracted, the market administrator shall add an amount computed by multiplying the pounds of skim milk and butterfat so subtracted by the applicable class prices.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 973.70 *Computation of the value of milk received from producers.* (a) The value of the milk received by each handler from producers at his pool plant(s) shall be a sum of money computed by the market administrator by multiplying the pounds of milk in each class by the applicable class prices, adding together the resulting amounts, and adding any amounts owed by the handler pursuant to subparagraphs (1) and (2) of this paragraph.

(1) Any amount computed pursuant to § 973.64, and

(2) If any skim milk or butterfat received in other source milk, except other source milk which is classified and priced under another marketing order issued pursuant to the act, has been allocated to Class I pursuant to § 973.45 in any delivery period when total receipts of producer milk at all pool plants exceed 105 percent of Class I sales, the market administrator shall add an amount equal to the difference between the value of such skim milk or butterfat at the Class I price and at the Class II price;

(b) In the case of a handler who operates a nonpool plant from which Class I milk has been disposed of in the marketing area, the market administrator shall determine a value for such handler by multiplying the pounds of skim milk or butterfat disposed of as Class I milk in the marketing area by the difference between the applicable Class I price and the Class II price in any delivery period when total receipts of producer milk at all pool plants exceed 105 percent of Class I sales.

§ 973.71 *Computation of uniform price.* For each of the delivery periods of July through December, the market administrator shall compute a uniform price per hundredweight for milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 973.70 for all handlers who filed reports pursuant to § 973.30, and who made the payments required pursuant to §§ 973.80, and 973.83 for the preceding delivery period;

(b) Subtract, if the average butterfat content of the milk included in these computations is greater than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 973.8 and multiplying the resulting amount by the total hundredweight of milk included in these computations;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 973.82;

(d) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(e) Divide the resulting sum by the total hundredweight of milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports or payments or delinquencies in payments by the handlers. The result shall be known as the "uniform price" per hundredweight for producer milk of 3.5 percent butterfat content.

§ 973.72 *Computation of price for base milk.* For each of the delivery periods of January through June, the market administrator shall compute a price per hundredweight for base milk received from producers as follows:

(a) Make the same computations required pursuant to § 973.71 (a), (b), (c), and (d);

(b) Subtract an amount computed by multiplying the pounds of excess milk included in these computations by an amount equal to the Class II price plus 8 cents;

(c) Divide the resulting sum by the total hundredweight of base milk included in these computations; and

(d) Subtract not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports or payments or delinquencies in payments by the handlers. The result shall be known as the "price for base milk" of 3.5 percent butterfat content.

§ 973.73 *Notification of handlers.* On or before the 13th day of each delivery period the market administrator shall notify each handler of:

(a) The amount and value of his producer milk in each class computed pursuant to §§ 973.45 and 973.70, and the totals of such amounts and values;

(b) The uniform price computed pursuant to § 973.71 or the price for base milk computed pursuant to § 973.72, whichever is applicable;

(c) The amount, if any, due such handler from the producer-settlement fund; and

(d) The total amounts to be paid by each handler pursuant to §§ 973.80, 973.84, 973.90 and 973.91.

BASE RULES

§ 973.75 *Determination of base for each producer.* (a) Any producer who delivers milk during the delivery periods of August, September, and October shall have a base computed by the market administrator, to be applicable during the following January through June, equal to the total pounds of milk delivered in the 3-month period divided by the number of days, not less than 78, from the date of first delivery to the end of such 3-month period: *Provided,* That for any portion of the period of August through October, 1955, that this subpart is not in effect, a producer may either submit evidence of delivery, in form satisfactory to the market administrator, or take the

status of a new producer pursuant to paragraph (b) of this section; and

(b) Any new producer shall have a base computed by dividing the quantity of milk delivered during the first full month in which such producer delivers milk by the number of days in such month and multiplying the result by the following factors:

November	0.75
December or January	.65
February, March, April, May, or June	.55

§ 973.76 *Establishing a new base.* A producer with a base, upon notifying the market administrator that he relinquishes such base, may establish a new base pursuant to § 973.75 (b) once during the period of November through June, the period for establishing such new base to begin the first day of the month following receipt of such notice by the market administrator.

§ 973.77 *Base rules.* (a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base-forming period.

(b) The base of a producer may be moved from one handler to another and may be transferred from such producer to another producer: *Provided*, That all deliveries of milk by a producer who has transferred his base to another producer shall be excess milk until July 1, next following such transfer.

PAYMENTS FOR MILK

§ 973.80 *Time and method of payment.* Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To a cooperative association, on or before the 10th day after the end of the delivery period in which the skim milk or butterfat was received at not less than the applicable class prices for all skim milk and butterfat received from such cooperative association or caused by it to be delivered to such handler directly from producers' farms.

(b) To each producer, on or before the 21st day after the end of the delivery period in which the milk was received, for milk not caused to be delivered to such handler by a cooperative association: (1) During the months of July through December, at not less than the uniform price computed pursuant to § 973.71, subject to the butterfat and location differentials set forth in §§ 973.81 and 973.82, and (2) during the months of January through June, at not less than the price for base milk computed pursuant to § 973.72, for all milk received from such producer not in excess of his base, and at not less than the price for Class II milk plus 8 cents for all excess milk received from such producer, subject in both cases to the butterfat and location differentials set forth in §§ 973.81 and 973.82.

§ 973.81 *Butterfat differential to producers.* If, during the delivery period, any handler has purchased or received from any producer, milk having an average butterfat content other than 3.5 percent, such handler, in making the payments prescribed in § 973.80 (b), shall add to the applicable price for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, not less than, and shall deduct for each one-tenth of one percent that such average butterfat content is below 3.5 percent, not more than, an amount computed by adding 21.14 percent to the average wholesale price per pound of Grade AA (93-score) butter at New York as reported by the Department of Agriculture during the delivery period and dividing the sum obtained by 10.

§ 973.82 *Location differential to producers.* In making payment pursuant to § 973.80 (b) for milk received from producers at a pool plant, each handler shall deduct from the applicable price payable to such producer the amount indicated below for the distance that such plant is located from the Minnesota Transfer Viaduct over University Avenue in St. Paul. Such deduction shall be based on the airline mileage as computed by the market administrator.

Location of Plant and Amount of Deduction

	Cents
0 to 15 miles	0
15 to 20 miles	8
20 to 30 miles	10
30 to 40 miles	12
40 to 50 miles	14
50 to 60 miles	15
60 to 70 miles	16
70 miles or over	[1] 17

[1] Plus an additional 1-cent for each 10 miles or fraction thereof in excess of 80 miles.

§ 973.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 973.84 and 973.86 and out of which he shall make all payments to handlers pursuant to §§ 973.85 and 973.86: *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

§ 973.84 *Payments to the producer-settlement fund.* On or before the 16th day after the end of each delivery period (a) each handler who operates a pool plant shall pay to the market administrator for payment to producers through the producer-settlement fund, the amount, if any, by which the total value computed for him pursuant to § 973.70 for such delivery period is greater than the sum required to be paid by such handler pursuant to § 973.80 (b), (b) each handler who receives his entire supply of milk from pool plants shall pay to the market administrator the amount, if any, computed for him pursuant to § 973.64; and (c) each handler who operates a nonpool plant shall pay to the market administrator the amount computed for him pursuant to § 973.70.

§ 973.85 *Payments out of the producer-settlement fund.* On or before the 17th day after the end of each delivery period, the market administrator shall pay to each handler for payment to producers, the amount, if any, by which the sum required to be paid by such handler pursuant to § 973.80 (b) is less than the total computed for him pursuant to § 973.70.

§ 973.86 *Adjustment of accounts.* Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 973.84 and 973.85, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make payment to such handler.

§ 973.87 *Adjustment of errors in payments to producers.* Whenever verification by the market administrator of the payments by a handler to any producer or to a cooperative association, discloses payment of less than is required by § 973.80, the handler shall make up such payment to such producer or cooperative association not later than the time for making payments next following such disclosure.

§ 973.88 *Statement to producers.* In making payment to producers as required by § 973.80, each handler shall furnish each producer from whom he received milk, with a supporting statement in such form that it may be retained by the producer, which shall show:

(a) The delivery period and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of the milk delivered by the producer, and for the delivery periods of January through June, the pounds of base milk and the pounds of excess milk;

(c) The minimum rate or rates at which payment to the producer is required pursuant to § 973.80 (a);

(d) The rate which is used in making the payment if such rate is other than the applicable minimum;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 973.91, together with a description of the respective deductions; and

(f) The net amount of the payment to the producer.

MISCELLANEOUS

§ 973.90 *Expense of administration.* As his pro rata share of the expense of the administration hereof, each handler who operates a pool plant shall pay to the market administrator, on or before the 15th day after the end of the delivery period, 1.5 cents per hundredweight or such amount not exceeding 1.5 cents per hundredweight as the Secretary may prescribe with respect to all receipts within the delivery period of (a) milk from producers including such handler's own farm production, and (b) other source milk which is classified as Class I milk, and each handler who operates a nonpool plant shall make such payment only with respect to Class I milk disposed of within the marketing area.

§ 973.91 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section each handler in making payments to producers (other than himself) pursuant to § 973.80 shall make a deduction of 2 cents per hundredweight or such lesser deduction as the Secretary from time to time may prescribe, with respect to all milk purchased or received directly from producers' farms during the delivery period and shall pay such deductions to the market administrator on or before the 18th day after the end of such delivery period. Such money shall be expended by the market administrator for market information to, and for the verification of weights, sampling, and testing of milk purchased or received from said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act" is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, no such deduction shall be made.

§ 973.92 *Termination of obligation.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

§ 973.93 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

EFFECTIVE TIME, SUSPENSION, AND TERMINATION

§ 973.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 973.101.

§ 973.101 *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 973.102 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising under this part, the final accrual of ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate. The market administrator, or such other person as the Secretary may designate shall:

(a) Continue in such capacity until discharged by the Secretary;

(b) From time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and

(c) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 973.103 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

[F. R. Doc. 56-99; Filed, Jan. 5, 1956; 8:48 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

STATEMENT OF ORGANIZATION

CENTRAL OFFICE; CHIEF SPECIAL INQUIRY OFFICER

The following amendment to the Statement of Organization of the Immigration and Naturalization Service (19 F. R. 8071, December 8, 1954) effective February 6, 1956, is prescribed:

Section 1.18a is added to read as follows:

SEC. 1.18a *Central Office; the Chief Special Inquiry Officer.* Under the executive direction of the Commissioner, the Chief Special Inquiry Officer, acting through Regional Special Inquiry Officers who are directly responsible to him, exercises general supervision over special inquiry officers.

Dated: January 3, 1956.

J. M. SWING,
Commisioner of Immigration and Naturalization.

[F. R. Doc. 56-113; Filed, Jan. 5, 1956; 8:53 a. m.]

Office of Alien Property

GERTRUD HARKE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Gertrud Harke, nee Fraenkel, Berlin, Germany, Claim No. 36838, Vesting Order No. 7764; $6,371.69 in the Treasury of the United States.

Executed at Washington, D. C., on December 27, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-105; Filed, Jan. 5, 1956; 8:50 a. m.]

DR. ROLF VON PAUR

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Dr. Rolf von Paur, 7 Westermuehlstr, Munich 5, Germany, Claim No. 40323, Vesting Orders Nos. 17800 & 17997; $9,926.57 in the Treasury of the United States.

Fritz P. Prager, 7 Westermuehlstr, Munich 5, Germany, Claim No. 40324, Vesting Orders Nos. 17800 & 17997; $4,967.93 in the Treasury of the United States.

Kurt Lieser, 84, Ormonde Court, Upper Richmond Road, London, S. W. 15, England, Claim No. 61755, Vesting Orders Nos. 17800 & 17997; $4,941.44 in the Treasury of the United States.

Executed at Washington, D. C., on December 27, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-106; Filed, Jan. 5, 1956; 8:50 a. m.]

WALTER P. MEYERHOFF

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Walter P. Meyerhoff, Goettingen, Germany, Claim No. 37112, Vesting Orders Nos. 165; 655; 9723; 18918 and 18992; $98,718.19 in the Treasury of the United States.

Executed at Washington, D. C., on December 28, 1955.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 56-107; Filed, Jan. 5, 1956; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[011491]

COLORADO

RESTORATION OF RECLAMATION WITHDRAWN LANDS TO MINERAL LOCATION, ENTRY AND PATENT

DECEMBER 29, 1955.

Pursuant to a determination by the Bureau of Reclamation under the Act of April 23, 1932 (47 Stat. 136; 43 U. S. C. 154), and in accordance with the authority delegated to me by the Director, Bureau of Land Management, in Order No. 541, dated April 21, 1954 (19 F. R. 2473), it is ordered as follows:

Subject to valid existing rights, provisions of existing withdrawals and the following stipulations and reservations the lands described below so far as they are withdrawn for reclamation purposes are hereby restored to location, entry and patent under the mining laws.

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 6 N., R. 94 W.,
Sec. 10: Lot 1, NW¼NE¼, S½NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 11: SW¼NW¼, SW¼, W½SE¼;
Sec. 13: W½NE¼, NE¼NW¼, S½NW¼, SW¼;
Sec. 14: Lot 1, NW¼NE¼, S½NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 15: Lots 1, 3, 4, 6, NE¼, E½NW¼, NE¼SW¼, N½SE¼.

The area described contains 2,340.40 acres of public land.

With respect to the above described lands it is stipulated:

(1) Such action will not permit any locations under the placer mining law for sand, gravel or other construction material;

(2) All mineral leases and entries that may be issued or allowed on said lands shall be subject to the right of the United States to enter upon and make investigations, surveys, and tests for reclamation works; and

(3) All locations for said lands shall be subject to the following provision: "This location is made subject to the provision that if and when the land is actually required for reclamation purposes, it may be utilized by the United States without payment, and any structures or improvements placed on the land which may interfere with contemplated reclamation works will be removed or relocated without expense to the United States, its successors or assigns."

The substance of the above stipulations and reservations shall be incorporated in any notice of location filed for record in a county recorder's office and will also be incorporated in any mineral patent which may subsequently issue for the lands described hereinabove.

Some of the lands included in this restoration order are under Power Site Classification No. 87 effective February 14, 1925, and Power Site Reserve No. 121 effective July 2, 1910. However, the lands included in the power site classification and the power site reserve may be subject to mining location subject to the terms and conditions of the Act of August 11, 1955, Public Law 359, 84th Congress.

This order shall not otherwise become effective to change the status of these lands until 10:00 a. m. on February 3, 1956.

Inquiries concerning these lands shall be addressed to State Supervisor, Bureau of Land Management, P. O. Box 1018, 357 New Custom House, Denver 1, Colorado.

J. ELLIOTT HALL,
Acting State Supervisor.

[F. R. Doc. 56-80; Filed, Jan. 5, 1956 8:45 a. m.]

COLORADO

NOTICE OF FILING OF PLAT OF SURVEY

DECEMBER 29, 1955.

Notice is given that the plat of completion survey of the following described lands, accepted August 29, 1955, will be officially filed in the Land Office, Denver, Colorado, effective at 10:00 a. m. on the 35th day after the date of this notice:

T. 40 N., R. 13 E., N. M. P. M., Colorado.
All of Section 19;
All of Sections 30 and 31.

The areas described aggregate 1,056.93 acres.

The plat represents resurvey of portion of the boundaries and survey of the subdivisional lines in fractional T. 40 N., R. 13 E., N. M. P. M., Colorado.

The area described in this survey lies along the southwestern edge of the Great Sand Dunes. The surface is generally gently rolling hills, with some high dunes in the northern part. The soil consists almost entirely of wind blown sand that supports little or no vegetation. The nearest town is at Alamosa, about 26 miles in a southerly direction.

At the hour and date specified above the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the

day specified above, the public lands affected by this notice shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279–284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this notice shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this notice, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this notice, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land Office, Bureau of Land Management, Room 383, New Custom House, Denver, Colorado, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to Manager, Land Office, Bureau of Land Management, Room 383, New Custom House, Denver, Colorado.

GEORGE H. WOODHALL,
Land Office Manager.

[F. R. Doc. 56–81; Filed, Jan. 5, 1956; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 291]

NASHVILLE UNION STOCK YARDS, INC.

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), an order was issued in this proceeding on January 3, 1955 (14 A. D. 15), continuing in effect to and including February 7, 1956, the order of February 2, 1953 (12 A. D. 113), which prescribed the current temporary schedule of rates and charges.

By a petition filed on December 27, 1955, the respondent requested authority to put into effect the following rates and charges for yardage which contain increases in the current rates and charges:

Cattle, 300 pounds or over	$0.90
Bulls, 600 pounds or over	1.30
Calves, 295 pounds or less	.50
Hogs	.30
Sheep, lambs, goats or kids	.30
Horses or mules	.75

On all livestock purchased on this yard that are subsequently resold to a buyer on the yards or removed from the holding pens to a selling pen for the purpose of resale, the following charges will be assessed:

Cattle, 300 pounds or over (per head)	$0.90
Bulls, 600 pounds or over	1.30
Calves, 295 pounds or less	.50
Hogs	.30
Sheep, lambs, goats or kids	.30

The authorization, if granted, will produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who wish to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days after the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 30th day of December 1955.

[SEAL] DAVID M. PETTUS,
Acting Director,
Livestock Division,
Agricultural Marketing Service.

[F. R. Doc. 56–100; Filed, Jan. 5, 1956; 8:49 a. m.]

Office of the Secretary

KANSAS

DESIGNATION OF AREAS FOR PRODUCTION EMERGENCY LOANS AND ECONOMIC EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a–2 (a)), as amended, it has been determined that in all counties in the State of Kansas a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

For the purpose of making economic emergency loans pursuant to section 2 (b) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress and section 301 of Public Law 480, 83d Congress, it has heretofore been determined that a major disaster occasioned by drought as determined by the President pursuant to Public Law 875, 81st Congress, existed and that an economic disaster existed in the State of Kansas.

The time for making initial production and economic emergency loans in all counties in the State of Kansas was extended on December 9, 1954, to terminate on December 31, 1955 (19 F. R. 8544, 8545). The period for making initial production and economic emergency loans pursuant to the authorities above referred to in all counties in the State of Kansas except the 37 listed in 20 F. R. 7054 is hereby extended to December 31, 1956.

Thereafter, production and economic emergency loans in such counties will be approved only to applicants who previously received the same type of assistance and who can qualify under established policies and procedures.

Done at Washington, D. C., on December 30, 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 56–101; Filed, Jan. 5, 1956; 8:49 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates,

number or proportion of learners and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.12) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.20 to 522.24, as amended April 19, 1955, 20 F. R. 2304).

Bee and Gee Pants Co., 104-06 River Street, Olyphant, Pa., effective 12-23-55 to 12-22-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' trousers).

B. Bennett Co., Inc., 123 Magazine Street, New Orleans 12, La., effective 12-27-55 to 12-26-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (work pants, semidress pants, work shirts, sport shirts).

Blakely Manufacturing Corp., Highway No. 62, Blakely, Ga., effective 1-4-56 to 7-3-56; 20 learners for plant expansion purposes (washable service garments).

Cherryvale Manufacturing Co., Cherryvale, Kans., effective 1-4-56 to 1-3-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's work clothes).

East Salem Shirt Co., Mifflintown, R. D., Delaware Township, Juniata County, Pa., effective 12-23-55 to 12-22-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' dress and sport shirts).

F. Jacobson & Sons, Inc., Salisbury, Md., effective 12-31-55 to 12-30-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's shirts).

Jayson York, Inc., East Street and Pennsylvania Avenue, York, Pa., effective 1-4-56 to 1-3-57; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's sport shirts).

The Juvenile Manufacturing Co., Inc., 327 North Flores Street, San Antonio, Tex., effective 12-21-55 to 12-20-56; 10 percent of the total number of factory production workers for normal labor turnover purposes. Learners are not authorized to be employed at subminimum wage rates in the production of boys' suits (boys' shorts, slacks, dress suits, etc.).

McAlisterville Shirt Factory, L. Shellenberger & Sons, Box A, McAlisterville, Fayette Township, Juniata County, Pa., effective 12-23-55 to 12-22-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' dress and sport shirts).

Morris Manufacturing Co., Fifth and Walnut Streets, Shamokin, Pa., effective 12-19-55 to 12-18-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (sport shirts).

Rice-Stix, Inc., Factory No. 26, Theyer, Mo., effective 12-20-55 to 6-19-56; 35 learners for plant expansion purposes (ladies' cotton and rayon dresses).

Richfield Shirt Factory, Monroe Township, Juniata County, Richfield, Pa., effective 12-23-55 to 12-22-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' dress and sport shirts).

Warrenshire Manufacturing Co., Inc., 50 River Street, Warrensburg, N. Y., effective 12-31-55 to 12-30-56; 10 percent of the total number of factory production workers for normal labor turnover purposes (men's shirts).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.43, as amended April 19, 1955, 20 F. R. 2304).

The Batesville Co., Batesville, Miss., effective 12-28-55 to 6-27-56; 25 learners for plant expansion purposes (seamless).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.12, as amended February 28, 1955, 20 F. R. 645).

The following special learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, the number of learners, the learner occupations, the length of the learning periods and the learner wage rates are indicated, respectively.

Pan American Products Corp., Matadero Rd., Puerto Nuevo, P. R., effective 12-12-55 to 6-11-56; 37 learners to be employed in the occupations hereinafter listed; coiling, trimming and rounding, assembly each 240 hours at 50 cents an hour and 240 hours at 55 cents an hour. (Manufacturers of wire fillers for ventilation auto cushions.)

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 27th day of December 1955.

VERL E. ROBERTS,
Authorized Representative of the Administrator.

[F. R. Doc. 56-82; Filed, Jan. 5, 1956; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 7558]

JAPAN AIR LINES CO., LTD.

NOTICE OF HEARING FOR AMENDMENT OF FOREIGN AIR CARRIER PERMIT

In the matter of the application of Japan Air Lines Company, Ltd., for an amendment of its foreign air carrier permit pursuant to section 402 of the Civil Aeronautics Act of 1938, as amended.

Notice is hereby given that a hearing in the above-entitled proceeding is assigned to be held on January 6, 1956, at 3:00 p. m., e. s. t., in Room 2044, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D. C., December 29, 1955.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56-115; Filed, Jan. 5, 1956; 8:53 a. m.]

[Docket No. 1706 et al.]

REOPENED TRANSATLANTIC FINAL MAIL RATE CASE

NOTICE OF ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on January 18, 1956, at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., January 3, 1956.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56-116; Filed, Jan. 5, 1956; 8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11444, 11445; FCC 55-1247]

COLUMBIA-MT. PLEASANT AND SPRING HILL RADIO CORP. AND SAVANNAH BROADCASTING CO.

MEMORANDUM OPINION AND ORDER AMENDING ISSUES

In re application of Columbia-Mt. Pleasant and Spring Hill Radio Corporation, Columbia, Tennessee, Docket No. 11444, File No. BP-9557; S. Q. Hanna tr/as The Savannah Broadcasting Co., Savannah, Tennessee, Docket No. 11445, File No. BP-9697; for Construction Permits.

1. The Commission has before it for consideration (a) a petition filed by Columbia-Mt. Pleasant and Spring Hill Radio Corporation, Columbia, Tennessee (hereinafter referred to as Columbia) on August 9, 1955, for Reconsideration and Grant; (b) a petition filed August 26, 1955, by the Chief, Broadcast Bureau, to dismiss with prejudice the application of S. Q. Hanna, tr/as The Savannah Broadcasting Co., Savannah, Tennessee (hereinafter referred to as Savannah); and (c) a Petition for a Waiver of Rule 1.387 (a) and for Leave to File Late Appearance, filed August 31, 1955, by Savannah.

2. Subsequent to filing the above-mentioned petitions, a number of pleadings in connection therewith have been filed with the Commission: (a) Reply to Petition to Dismiss Savannah's Application with Prejudice, filed September 1, 1955, by Savannah; (b) Answer to Petition to Accept Late Appearance, filed September 2, 1955, by Columbia; (c) Motion to Strike Petition for Reconsideration and Grant, filed September 8, 1955 by Savannah; (d) a Motion to Strike Savannah's Motion to Strike Petition for Reconsideration, filed September 16, 1955 by Columbia; and (e) Opposition to Motion to Strike, filed September 22, 1955 by Savannah.

3. *Background.* By an order released July 8, 1955, the Commission designated for hearing in a comparative proceeding

the above-entitled applications of Columbia and of Savannah for construction permits for standard broadcast stations to operate on the frequency 1280 kc with 1 kw power, daytime only at Columbia, Tennessee and Savannah, Tennessee, respectively.

4. *Subject petition by Columbia.* On August 9, 1955 Columbia filed its above petition for reconsideration and grant requesting reconsideration of the Commission's action designating the said applications for hearing; for dismissal of Savannah's application in accordance with § 1.387 (a) [1] of the Commission's Rules; and for removal from the hearing docket and immediate grant of Columbia's application. In the alternative, in the event the Commission grants a waiver of § 1.387 (a) of its Rules to permit Savannah to enter its appearance in the hearing proceeding, Columbia requests a conditional grant of its application under the provisions of § 1.385 [2] of the Commission's Rules.

5. In support of its petition for reconsideration and grant, Columbia alleges that the Savannah application was filed for the purpose of "delaying and hindering" a grant to Columbia at the instigation of persons either connected in some manner with Savannah or having an interest in radio facilities which would suffer from possible competition by a grant of the Columbia application. Affidavits setting forth particular factual matters were submitted in support of these allegations. It is also alleged that Savannah's failure to timely file its notice of appearance is further evidence that its application was not filed in good faith, but rather to hinder and delay action on Columbia's application.

6. In its pleading filed September 16, 1955, Columbia, inter alia, requests enlargement of the issues, in the event Savannah is permitted to participate further in this proceeding, to include issues relating to whether Savannah's application was filed for the purpose of delaying determination of the Columbia application.

7. *Savannah's reply to Columbia.* Savannah, in reply, generally denies that its application was filed for the purpose of delay. It alleges that the relief requested by Columbia for grant of its application without hearing would be inconsistent with § 1.382 [3] of the Commission's Rules, as there is no evidence before the Commission which would indicate that its application was filed for the purpose of delaying or hindering the grant of another application within the meaning of § 1.385 of our Rules. It is therefore contended that a conditional grant cannot be made on the basis of the pleadings by Columbia. Savannah also asserts that it fully intends to prosecute its application and operate its station should it receive a construction permit.

8. With respect to Columbia's request for enlargement of the issues, Savannah points out that the request was not timely filed as required by § 1.389 of our Rules [4] and that good cause for such failure has not shown.

9. *Broadcast Bureau's petition and reply thereto.* The above petition of the Broadcast Bureau asks for dismissal of Savannah's application for failure to file a Notice of Appearance as required by § 1.387 (a) of the Commission's Rules. It further petitions the Commission to remove Columbia's application from hearing and return it to the processing file.

10. By its above petition filed August 31, 1955, Savannah requested the Commission to waive § 1.387 of its Rules, alleging the facts that in an answer to the Commission's "MacFarland letter", it expressed its intention to appear and participate in the hearing. For further reason, it states that it then had local counsel who was not familiar with the Commission's Rules, and that it subsequently employed Washington counsel.

11. We first consider the petition of the Broadcast Bureau for dismissal of Savannah's application for failure to timely file its notice of appearance. In connection therewith, we also consider Savannah's petition for waiver of § 1.387 of our Rules to permit it to file its notice of appearance. We are of the view that Savannah's reply to our "MacFarland letter" was adequate notice to all concerned that Savannah intended to appear in the hearing and therefore its petition for waiver of § 1.387 of our Rules to permit late filing notice of appearance should be granted.

12. We next turn to a consideration of the allegations by Columbia with respect to the conduct of Savannah. We have examined the pleadings and supporting affidavits relative thereto and are of the view that the evidence presented by Columbia, although not sufficient to sustain a conclusion that the application of Savannah was filed for the purpose of "hindering and delaying" a grant of Columbia's application, contains sufficient allegations to warrant further evidence thereon. Therefore, cause for enlargement of the issues as requested by Columbia has been shown.

13. In view of the foregoing, *It is ordered*, That the said petition of the Broadcast Bureau for dismissal of Savannah's application and removal of Columbia's application from hearing is denied; and that Columbia's said petition for reconsideration and grant is denied; that the petition of Savannah Broadcasting Company for leave to file late appearance is granted and its appearance is accepted. *It is further ordered*, That Columbia's request for enlargement of the issues is granted, present issue 3 is renumbered issue 5 and the issues are enlarged to include as issues 3 and 4 the following:

3. "To determine whether the application of S. Q. Hanna, tr/as The Savannah Broadcasting Company, was filed primarily for the purpose of impeding, obstructing, or delaying determination of the application of Columbia-Mt. Pleasant and Spring Hill Radio Corporation with which it is in conflict."

4. "To determine whether the application of S. Q. Hanna, tr/as The Savannah Broadcasting Company was filed for the purpose of delaying determination of the application of Columbia-Mt. Pleasant and Spring Hill Radio Corporation at the instigation of persons connected with or representing the Middle Tennessee Broadcasting Company, licensee of Radio Station WKRM, Columbia, Tennessee, or in collusion with persons connected with the filing of application File No. BP-9611 by Tri-County Broadcasting Company of Hickman, Lewis and Perry Counties and/or the filing of application File No. BP-10029 by Revis V. Hobbs and James B. Ross, d/b as Shiloh Broadcasting."

Adopted: December 21, 1955.

Released: December 23, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-108; Filed, Jan. 5, 1956; 8:51 a. m.]

[Docket No. 11591; FCC 55-1270]

WEST GEORGIA BROADCASTING CO. (WWCS)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of West Georgia Broadcasting Company (WWCS), Bremen, Georgia, Docket No. 11591, File No. BP-10002; for Construction Permit for New Standard Broadcast Station.

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[1] Section 1.387 provides in pertinent part "(a) In order to avail himself of the opportunity to be heard, the applicant, in person or by his attorney, shall within 20 days of the mailing of the notice of designation for hearing by the Secretary, file with the Commission, in triplicate, a written appearance stating that he will appear and present evidence on the issues specified in the statement of reasons furnished by the Commission on such date as may be fixed for the hearing. Where an applicant fails to file such a written statement within the time specified, and has not filed prior to the expiration of that time, a petition to dismiss without prejudice pursuant to § 1.366, his application shall be dismissed with prejudice for failure to prosecute * * *."

[2] Section 1.385 provides in pertinent part that applications will be designated for hearing in the following cases, (e) where a grant would preclude a grant which is mutually exclusive with it. However, the Commission may make a conditional grant where it appears that the public interest will be served thereby and only where it appears (1) "that some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application."

[3] In pertinent part, § 1.382 of our Rules provides as follows: "Where an application for radio facilities is proper upon its face and where it appears from an examination of the application and supporting data that * * * (d) a grant of the application would not preclude the grant of any mutually exclusive application * * * the Commission will grant the application without a hearing."

[4] In pertintent part, § 1.389 of our Rules provides as follows: "Motions to enlarge or change the issues may be filed by any party to a hearing. Such motions must be filed with the Commission not later than 15 days after the issues in the hearing have first been published in the FEDERAL REGISTER." The Rule further provides that such motion may be filed after the expiration of such 15 days providing "good cause is shown for delay in filing * * *."

1. The Commission has before it for consideration a protest filed on November 30, 1955 by the Carroll Broadcasting Company, Inc., licensee of Station WLBB, Carrollton, Georgia (1100 kc, 250 w, Day), pursuant to section 309 (c) of the Communications Act of 1934, as amended, and directed to the Commission's action of November 2, 1955 (released November 3, 1955), in granting without hearing the application of the West Georgia Broadcasting Company for a construction permit for a new standard broadcast station (WWCS) to operate on 1440 kilocycles with a power of 500 watts, daytime only, at Bremen, Georgia, File No. BP-10002.

2. The protestant (hereinafter referred to as WLBB) claims that it is a party in interest within the meaning of section 309 (c) of the act because it is licensee of Station WLBB in Carrollton, Georgia, which is about 12 miles from Bremen, Georgia, where WLBB maintains remote control studios and where WWCS proposes to operate, and both stations serve both cities and would be in competition for advertising revenue therefrom. In support of its protest WLBB avers that the Commission erred in granting the construction permit for WWCS because the permittee is not financially qualified to construct and operate its proposed station and because the grant of the application was in contravention of Sub-sections (a) and (b) of § 3.35 of the Commission Rules on multiple ownership. WLBB contends that WWCS is not financially qualified because "applicant's costs will probably exceed $24,000 during the first year of operation [estimated by applicant] and that applicant's revenues would be far less than its estimate of $36,000. Certainly, a corporation so thin as to have an 85 percent debt ratio is not on sound financial ground for the commencement of a radio station, particularly when it would have to compete with an existing station in a sparsely populated service area." WLBB further contends that J. J. Mangham, Jr., President and Director of WWCS, is a son-in-law of E. D. Rivers, Sr. and a brother-in-law of James S. Rivers and E. D. Rivers, Jr.; that these three persons, together with B. F. J. Timm, also a relative of Mr. Rivers, Sr., own a total of fourteen standard broadcast stations, and upon information and belief, exercise joint control over all fourteen stations and, therefore, the grant of a construction permit for WWCS was in contravention of Sub-section (b) on concentration of control under § 3.35 of the Rules on multiple ownership; and that Station WEAS, Decatur, Georgia, a member of the controlled group, provides primary service to Bremen, Georgia, and the grant of the construction permit for WWCS was in contravention of Subsection (a) on duopoly under § 3.35 of the Commission's Rules. WLBB urges that "There is no need for any new station in the area, and in fact a new station, through competition, would destroy both itself and the protestant's station, thereby leaving the entire area without local broadcast service." It is requested in the said protest that the Commission set aside its grant of Novemebr 2, 1955, and deny the subject application or set the matter for hearing and make WLBB a party to the proceeding. The protestant specifies no issues upon which it desires to present evidence at the hearing.

3. In view of the fact that the protestant is licensee of standard broadcast Station WLBB, Carrollton, Georgia; that Carrollton is approximately 12 miles from Bremen, Georgia, where WLBB operates remote control studios and where WWCS proposes to operate; that both WWCS and WLBB serve both Carrollton and Bremen, Georgia, and compete for advertising revenue therefrom; and that the protestant has alleged that it will be financially injured by the grant in question, we find the protestant to be a "party in interest" within the meaning of section 309 (c) of the Communications Act of 1934, as amended. T. E. Allen and Sons, Inc., 9 Pike and Fischer RR 197; Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 407 (9 Pike and Fischer RR 2008). We find further that the facts, matters and things relied upon by the protestant have been specified with sufficient particularity to warrant designating the above-entitled application for hearing.

4. In view of the foregoing, *It is ordered*, That, pursuant to section 309 (c) of the Communications Act of 1934, as amended, effective immediately, the effective date of the grant of the above-entitled application is postponed pending a final determination by the Commission in the hearing described below with respect to the protest by the Carroll Broadcasting Company, Inc.; and that the above-entitled application is designated for hearing at the offices of the Commission in Washington, D. C., on the following issues:

(a) To determine whether a grant of the above-entitled application of the West Point Broadcasting Company is in contravention of the provisions of § 3.35 of the Commission's Rules.

(b) To determine whether the West Georgia Broadcasting Company is financially qualified to construct and operate Station WWCS.

(c) To determine, on the basis of the evidence adduced pursuant to the foregoing issues, whether the grant of the subject application should be set aside.

The burden of proof on each of the above issues shall be on the protestant.

It is further ordered, That Carroll Broadcasting Company, Inc., licensee of Station WLBB, Carrollton, Georgia, and the Chief, Broadcast Bureau are made parties to the above-ordered proceeding; and that

(a) The parties intending to participate in the hearing herein shall file their appearances not later than January 13, 1956.

(b) The hearing shall commence at 10 a. m. on January 23, 1956, before an examiner of the Commission.

(c) The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions.

Adopted: December 21, 1955.

Released: January 3, 1956.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-109; Filed, Jan. 5, 1956; 8:51 a. m.]

[Docket Nos. 11584 and 11585; FCC 55M-1071]

VIDEO INDEPENDENT THEATRES, INC., AND KICA, INC.

ORDER SCHEDULING HEARING

In re applications of Video Independent Theatres, Inc., Clovis, New Mexico, Docket No. 11584, File No. BPCT-2013; KICA, Inc., Clovis, New Mexico, Docket No. 11585, File No. BPCT-2038; for construction permits for new television broadcast stations.

It is ordered, This 23d day of December 1955, that Hugh B. Hutchison will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 24, 1956, in Washington, D. C.

Released: December 28, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-110; Filed, Jan. 5, 1956; 8:51 a. m.]

[Docket No. 11592; FCC 55-1277]

LEBANON BROADCASTING CO. ET AL. AND TRIANGLE PUBLICATIONS, INC.

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of Lebanon Broadcasting Company et al. (Transferors) and Triangle Publications, Inc. (Radio and Television Division), (Transferee), Docket No. 11592, File No. BTC-2020; for Transfer of Control of Lebanon Television Corporation, permittee of Station WLBR-TV, Lebanon, Pennsylvania.

1. The Commission has before it a "Protest and Petition for Reconsideration" pursuant to sections 309 (c) and 405 of the Communications Act of 1934, filed on December 1, 1955, by WHP, Inc., permittee of television station WHP-TV, Harrisburg, Pennsylvania; The Patriot-News Company, permittee of television station WTPA, Harrisburg, Pennsylvania; Eastern Radio Corporation, permittee of television station WHUM-TV, Reading, Pennsylvania; and Rossmoyne Corporation, permittee of television station WCMB-TV, Harrisburg, Pennsylvania, against the Commission's action of November 2, 1955, granting, without a hearing, the above-entitled application. An "Opposition to Protest and Petition for Reconsideration" was filed by Tri-

angle Publications, Inc., on December 12, 1955.

2. The protestants allege that they are operators of UHF television stations which provide grade A service to the city of Lebanon, Pennsylvania; that Station WLBR–TV, Lebanon, is now off the air and has been inoperative for 13½ months; that the Commission's action granting the above-entitled application will enable Triangle Publications to acquire control of the station and that Triangle Publications proposes to restore the station to operation; that Station WLBR–TV will be in competition with the protestants for local, regional, and national advertisers, for listeners, for local talent, for news services, for network affiliations, for syndicated film, and for personnel; and, that Triangle Publications' other mass media interests will give it bargaining power which will place the protestants at a severe competitive disadvantage. By these allegations, protestants seek to establish themselves as "parties in interest," possessed of the requisite standing to protest under section 309 (c) of the Communications Act of 1934, as amended.

3. In further support of their protest, the protestants allege that Triangle Publications controls television stations in Binghamton, New York; and Philadelphia, Pennsylvania, and has applied for the Commission's consent to acquire another television station and a radio station in Altoona, Pennsylvania; that Triangle controls radio stations in Binghamton, New York; Philadelphia, Pennsylvania; and Harrisburg, Pennsylvania; that Triangle publishes the Philadelphia Inquirer, TV Guide and other publications; that by virtue of Triangle's broadcasting and publishing interests, the proposed transfer of control would be inconsistent with § 3.636 of the Commission's Rules and Regulations prohibiting undue concentration of control of television broadcasting, and with the Commission's policies against undue concentration of control of media of mass communications; that Triangle proposes to originate very few local programs from Station WLBR–TV, and has indicated that it may eventually drop all local programming; that Trinagle proposes to operate Station WLBR–TV as a "satellite" of Station WFIL–TV, Philadelphia, and such satellite operation might forever preclude the city of Lebanon from having a local television service; that Triangle may use "package" rates, special bonuses and other arrangements to induce advertisers to carry advertising on WLBR–TV instead of on other stations serving the same area; that it is not unlikely that Triangle will attempt eventually to transform Station WLBR–TV into a Harrisburg station or Harrisburg-Lebanon station, thereby depriving Lebanon of local television service; and that Triangle may use its "TV Guide" to attract viewers to WLBR–TV and away from other competing stations in the area. Protestants also request an issue as to whether the grant of the instant application would be in the public interest in view of the Commission's decision in Community Broadcasting Service, Inc. (WWBZ), FCC 55–1164, and in the light of the fact that Triangle publishes The Daily Racing Form, Morning Telegraph, and Thoroughbred Racing Association Manual.

4. In the "Opposition to Protest and Petition for Reconsideration," Triangle contends that protestants are not parties in interest because the possibility of competition from Station WLBR–TV was voluntarily assumed by the protestants when they applied for their respective facilities, since a channel has been allocated to Lebanon since 1952, under the Commission's Sixth Report and Order. Triangle also points out that all of the protestants' allegations were brought to the attention of the Commission by a "Petition to Designate Application for Hearing" filed by the protestants prior to the grant of the application now being attacked. The Commission at that time addressed a letter to the applicants, pursuant to section 309 (b) of the Communications Act of 1934, as amended, inquiring about the matters set forth in the petition. After considering the petition and the replies to its letter, the Commission determined that the proposed transfer of control would be in the public interest, convenience and necessity, and granted the application.

5. In its opposition, Triangle denies any intent to use its publication, "TV Guide," to attract viewers to WLBR–TV, at the expense of other area stations; denies that the proposed transfer of control would violate the Commission's Rules or policies against undue concentration of control of media of mass communication; denies any intent to use WLBR–TV as a "package arrangement" or "bonus arrangement station" and denies that the subject application proposes operation of WLBR–TV as a "satellite." Triangle characterizes as "speculative" the protestants' statements concerning the possibility Triangle may endeavor to create a Harrisburg or Harrisburg-Lebanon station. Finally, Triangle asserts that the Community Broadcasting Service, Inc., decision is totally irrelevant and that the Morning Telegraph is a publication "devoted to Turf, Motion Pictures and Theatres," and The Daily Racing Form is "the official newspaper of the National Association of State Racing Commissioners.

6. In view of the fact that protestants are permittees of television stations serving the city of Lebanon, Pennsylvania; that said stations and Station WLBR–TV will compete, inter alia, for advertising revenues; and that the protestants have alleged that they will suffer economic injury as a result of the grant complained of, we find the protestants to be parties in interest and persons aggrieved or whose interests are adversely affected thereby, within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended. Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 407. Camden Radio, Inc., v. Federal Communications Commission, 220 F. 2d 191.

7. We find further that, except as to certain issues discussed below, the facts, matters and things relied upon by the protestants have been specified with sufficient particularity to warrant designating the above-entitled application for hearing. Among the issues specified by the protestants are the following:

"(4) To determine whether Triangle Publications, Inc. (transferee), through its control of television, standard broadcast, metropolitan newspaper, racing sheets, nationally and locally distributed magazines throughout Pennsylvania and southeastern New York, will, if the instant application is granted, offer combination rates, special joint discounts, rebates, and/or other methods of preferential treatment of advertisers to induce them to patronize media of mass communications which Triangle controls and not to patronize other radio and television stations in the Harrisburg-Lebanon-Reading, Pennsylvania area; and, if so, to determine whether these practices will involve joint arrangements between (among):

"A. Stations WFIL–TV, Philadelphia; WNBF–TV, Binghamton; WLBR–TV, Lebanon; and WFBG–TV, Altoona;

"B. WFIL and WFIL–FM, Philadelphia; WNBF, Binghamton; WHGB, Harrisburg; and WFBG, Altoona;

"C. Quaker Network of Pennsylvania AM and TV stations;

"D. Philadelphia Inquirer, Daily Racing Form, Morning Telegraph and other newspapers controlled by Triangle, if any;

"E. Throughbred Horse Racing Manual, Seventeen, Official Detective, TV Guide and other magazines controlled by Triangle, if any; and/or

"F. Any other combinations of Triangle's mass communications media interests.

"(5) To determine whether Triangle Publications, Inc. (transferee), through its control of television broadcasting, standard broadcasting, frequency modulation broadcasting, metropolitan newspaper and magazine interests in Pennsylvania, and adjacent southeastern New York and elsewhere, will, if the instant application is granted, use its extensive mass communications media interests to persuade national and regional advertisers and networks to patronize WLBR–TV instead of other television stations serving the Harrisburg-Lebanon-Reading, Pennsylvania area; and more particularly to determine if Triangle will attempt to achieve this end by offering combination rates, special joint discounts, rebates, clearances, bonuses and other methods of preferential treatment to national and regional advertisers and networks.

"(6) To determine what type of "package" rates, bonuses and other similar arrangements, if any, are planned between television stations WFIL–TV and WLBR–TV and other mass media owned or controlled by Triangle and the resultant effect thereof upon the existing television stations now operating in Philadelphia.

"(7) To determine what plans Triangle has looking toward a change in the designation of Station WLBR–TV from Lebanon to Harrisburg or Harrisburg-Lebanon and/or a change in call letters from WLBR–TV to WHGB–TV and/or the operation of studios in Harrisburg and/or the use of WHGB personnel on a joint basis.

"(8) To determine whether Triangle will utilize its weekly magazine, TV Guide, to attract viewers to WLBR–TV with an attendant diminution of audiences for the competing television stations in the Harrisburg-Lebanon-Reading area.

"(9) To determine whether the grant of the instant application would be in the public interest, in view of the Commission's decision in Community Broadcasting Service, Inc. (WWBZ) FCC 55–1164 (released November 28, 1955), and in light of the fact that Triangle publishes the Daily Racing Form, Morning Telegraph and Thoroughbred Racing Association Manual.

"(12) To determine the economic effect of a grant of the instant application upon existing UHF stations operating in the Harrisburg-Lebanon-Reading area."

8. Section 309 (c) of the Communications Act requires that with respect to the substantive allegations going to the merits of the application, the protest shall "specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally." With respect to issues numbers 4, 5 and 6, the protestants have alleged that Triangle has admitted in the above-entitled application that it does not intend to delete commercials from programs originating at Station WFIL–TV and being rebroadcast over WLBR–TV. We believe this allegation supports an issue as to whether Triangle intends to establish "package" rates or bonus arrangements between Stations WFIL–TV and WLBR–TV. In addition, protestants have alleged that Triangle owns or controls numerous other media of mass communication. We find that said allegation supports an issue as to whether Triangle will use its interests in the field of mass communications to secure an undue competitive advantage.

9. With respect to the other matters referred to in the issues 4, 5 and 6, the issues, as drawn by the protestants, are framed generally and amount to nothing more than general allegations "obviously insufficient under the statute without some specification of events or circumstances." Federal Broadcasting System, Inc. v. Federal Communications Commission, 225 F. 2d 560, 563. The protestants assert that they "believe that Triangle will utilize 'package' rates, special bonuses and other arrangements to induce advertisers to carry their television advertising on WLBR–TV instead of on other television stations serving the same area." However, this statement is mere speculation, does not constitute a statement of fact, and is therefore insufficient. Accordingly, we are combining and rephrasing issues 4, 5 and 6 to conform with the facts alleged.

10. With respect to issues 7 and 8, protestants assert that they "firmly believe that some attempt will be made by Triangle looking toward WLBR–TV becoming a Harrisburg-Lebanon station" and, that "Triangle may use its TV Guide to attract viewers to WLBR–TV and away from competing stations in the Harrisburg-Lebanon-Reading" area. In view of what has been said above, it will be apparent that these allegations are insufficient to support the requested issues, and we are not designating them for hearing. As to protestants' issue number 9, the Commission, in the Community Broadcasting case, revoked the license of a radio station upon finding that the station was neglectful of the public interest, and carried programs likely to be of assistance to persons engaged in illegal gambling activities. There are no allegations in the instant protest that Triangle will use Station WLBR–TV in such a manner as to promote or aid illegal gambling, and we find no connection between the Commission's decision in the Community Broadcasting case and Triangle's ownership of publications which contain information about horseracing.

11. With respect to issue number 12, it should be pointed out that the retention of such issue for hearing does not constitute a determination at this time that the competitive effect of Station WLBR–TV on the protestants' stations is a relevant consideration. This question will be determined at the hearing.

12. In view of the foregoing, *It is ordered*, That effective immediately, the effective date of the grant of the above-entitled application is postponed pending a final determination by the Commission with respect to the protest of WHP, Inc., Rossmoyne Corporation, The Patriot-News Company and Eastern Radio Corporation; that the petition for reconsideration herein is granted to the extent provided for below and is denied in all other respects; and that, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-entitled application is designated for hearing at the offices of the Commission in Washington, D. C., on the following issues:

(1) To determine whether, in view of the ownership interests of Triangle Publications, Inc. (transferee), a grant of the instant application would result in an undue concentration of control of several media of mass communications in Pennsylvania and adjacent southeastern New York, including television broadcast operations, standard broadcast operations, metropolitan newspapers, racing sheets and nationally and locally distributed magazines.

(2) To determine whether the grant of the instant application would result in an undue concentration of control of broadcast stations and hence be contrary to the provisions of § 3.636 of the Commission's Rules and Regulations and inconsistent with the public interest, convenience and necessity.

(3) To determine whether the over-all plan of Triangle to own and operate television stations in Philadelphia, Binghamton, Lebanon and Altoona, and radio stations in Philadelphia, Harrisburg, Binghamton and Altoona, in accordance with now pending applications, would result in an undue concentration of control of broadcast stations inconsistent with the public interest, convenience and necessity, contrary to § 3.636 of the Rules.

(4) To determine, in view of the interests held by Triangle Publications, Inc., in television stations, standard broadcast stations, newspapers, and magazines and other publications, whether Triangle Publications will, if the instant application is granted, have an undue competitive advantage over licensees or permittees of other television stations located in the areas of Harrisburg, Pennsylvania; Lebanon, Pennsylvania; Reading, Pennsylvania; or Philadelphia, Pennsylvania.

(5) To determine whether, if the instant application is granted, Triangle Publications will utilize any "bonus" arrangements, "package" rate arrangements, or similar arrangements between Station WFIL–TV, Philadelphia, Pennsylvania, and Station WLBR–TV, Lebanon, Pennsylvania; and to determine the effect of such arrangements, if any, upon other television stations located in Harrisburg, Pennsylvania; Reading, Pennsylvania; Lebanon, Pennsylvania; or Philadelphia, Pennsylvania; and to further determine whether such effect would be consistent with the public interest, convenience and necessity.

(6) To determine the network, rebroadcasting, local and other program plans of Triangle for WLBR–TV, and whether these plans will meet the needs and desires of the area to be served.

(7) To determine if a grant of the instant application will preclude the future rendition of a local television service in Lebanon.

(8) To determine the economic effect of a grant of the instant application upon existing UHF stations operating in the Harrisburg-Lebanon-Reading area.

(9) To determine whether, in view of the evidence adduced under the above issues, the transfer of control of WLBR–TV to Triangle will serve the public interest, convenience and necessity.

The burden of proof as to each of the above issues shall be on the protestants.

It is further ordered, That the protestants and the Chief, Broadcast Bureau, are hereby made parties to the proceeding herein and that:

(a) The hearing on the above issues shall commence at 10:00 a. m. on February 29, 1956, before an Examiner to be specified by the Commission;

(b) The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions; and

(c) The appearances by the parties intending to participate in the above hearing shall be filed not later than February 15, 1956.

Adopted: December 28, 1955.

Released: December 30, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56–111; Filed, Jan. 5, 1956; 8:52 a. m.]

[Docket No. 11428; FCC 55M–1079]

DELSEA BROADCASTERS

ORDER CONTINUING HEARING

In re application of Mortimer Hendrickson, Vivian Eliza Hendrickson and John Thomas Jones, Jr., a partnership,

d/b as The Dealsea Broadcasters, Pitman-Glassboro, New Jersey, Docket No. 11428, File No. BP-9431; for Construction Permit.

The Hearing Examiner having under consideration a petition filed by the applicant on December 23, 1955, requesting a continuance of the hearing for 60 days;

It appearing that The Delsea Broadcasters are the sole remaining applicant in this proceeding and that the continuance is desired in order that an attempt may be made to resolve certain of the problems for which the application was designated to be heard; and

It further appearing that no objection has been raised by other parties to the proceeding;

It is ordered, This 29th day of December 1955, that the petition of The Delsea Broadcasters is granted and the hearing now scheduled for January 9, 1956, is continued to March 12, 1956, at 10:00 a. m. in Washington, D. C.

Released: December 30, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-112; Filed, Jan. 5, 1956; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3432]

COLUMBIA GAS SYSTEM, INC., ET AL.

ORDER AUTHORIZING SALE OF PROMISSORY NOTE BY SUBSIDIARY TO PARENT AND OF ASSETS BY PUBLIC-UTILITY SUBSIDIARY TO ASSOCIATE COMPANY

DECEMBER 30, 1955.

In the matter of the Columbia Gas System, Inc., United Fuel Gas Company, Atlantic Seaboard Corporation, File No. 70-3432.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and two of its wholly owned subsidiaries, United Fuel Gas Company ("United Fuel") and Atlantic Seaboard Corporation ("Seaboard") have filed with this Commission a joint application-declaration and an amendment thereto, pursuant to sections 6, 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("act") and Rule U-43 promulgated thereunder with respect to the following proposed transactions.

United Fuel, a gas utility company incorporated in West Virginia proposes to sell to Seaboard, a non-utility associate company, incorporated in Delaware, certain gas storage facilities consisting of a storage pool, wells, structures and auxiliary equipment and 5.5 miles of 10¾ inch transmission line located in West Virginia. United Fuel proposes to sell such assets at original cost less accrued depreciation as of the date of transfer. Based on book figures as of October 31, 1955, such purchase price would have been $1,326,026.77 for the facilities plus $350,000 for storage gas subject to current delivery.

Seaboard proposes to finance the purchase of the facilities by the issue and sale to Columbia of a 3⅝ percent unsecured promissory note in the principal amount of $1,300,000 due in 25 equal annual installments on February 15 of the years 1957 to 1981, inclusive. The balance of the purchase price is proposed to be paid in cash from retained earnings.

The Federal Power Commission approved the abandonment of service by United Fuel and the acquisition and operation of such facilities by Seaboard by order dated November 30, 1955.

It is stated that fees and expenses in connection with the proposed transactions will be nominal.

Applicants-declarants request that the Commission's order herein become effective upon issuance.

Due notice having been given of the filing of said joint application-declaration and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the Act and the Rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that the joint application-declaration as amended, be granted and permitted to become effective, forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said joint application-declaration, as amended, be, and hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-95; Filed, Jan. 5, 1956; 8:47 a. m.]

[File No. 70-3430]

COLUMBIA GAS SYSTEM, INC., AND CENTRAL KENTUCKY NATURAL GAS CO.

ORDER AUTHORIZING SALE OF UTILITY ASSETS

DECEMBER 30, 1955.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its public-utility subsidiary, Central Kentucky Natural Gas Company ("Central Kentucky"), have filed a joint declaration and an amendment thereto pursuant to section 12 of the Public Utility Holding Company Act of 1935 and Rule U-44 promulgated thereunder, regarding the following proposed transaction:

Central Kentucky proposes to sell to The Union Light, Heat and Power Company ("Union") and the Cincinnati Gas & Electric Company ("Cincinnati"), non-affiliated companies, certain gas utility assets consisting of transmission lines, related river crossings and a measuring station, for an aggregate price based on the original cost of such facilities less accrued depreciation per books. As of September 30, 1954, such original cost was $707,802.05 and the accrued depreciation amounted to $186,686.35. It is stated that the facilities proposed to be sold are no longer suitable for Central Kentucky's transmission purposes but will be useful to the purchasers as distribution facilities.

The Public Service Commission of Kentucky and the Federal Power Commission have approved the proposed sale by Central Kentucky and the proposed acquisition by Union, and the Ohio Public Utilities Commission has authorized the proposed acquisition by Cincinnati. It is stated that the fees and expenses in connection with the proposed sale will be nominal.

Due notice having been given of the filing of said joint declaration, and a hearing not having been requested of or ordered by the Commission, and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interests of investors and consumers that said joint declaration, as amended, be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said joint declaration, as amended, be, and it hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-96; Filed, Jan. 5, 1956; 8:48 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1783]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF ORDER MODIFYING INITIAL DECISION

DECEMBER 30, 1955.

Notice is hereby given that on December 15, 1955, the Federal Power Commission issued its order adopted December 14, 1955, modifying and affirming as modified the initial decision of the Presiding Examiner issuing a certificate of public convenience and necessity in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-83; Filed, Jan. 5, 1956; 8:46 a. m.]

[Docket No. G-6063 etc.]

ELM OIL AND GAS CORP. ET AL.

NOTICE OF FINDINGS AND ORDERS

DECEMBER 30, 1955.

In the matters of Elm Oil and Gas Corporation, Docket No. G-6063; Fryer & Hanson Drilling Company, Docket No. G-9316; Messenger-White Gas Company, et al., Docket No. G-9329.

Notice is hereby given that on December 16, 1955, the Federal Power Commission issued its findings and orders adopted December 14, 1955, issuing cer-

tificates of public convenience and necessity in the above-entitled matters.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-84; Filed, Jan. 5, 1956; 8:46 a. m.]

[Docket No. G-9419]

PIKE NATURAL GAS CO.

NOTICE OF ORDER DIRECTING CONNECTION OF PHYSICAL FACILITIES

DECEMBER 30, 1955.

Notice is hereby given that on December 15, 1955, the Federal Power Commission issued its order adopted December 14, 1955, directing physical connection of facilities and sale of natural gas in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-85; Filed, Jan. 5, 1956; 8:46 a. m.]

[Docket No. E-6623]

GULF STATES UTILITIES CO.

NOTICE OF SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

DECEMBER 29, 1955.

Notice is hereby given that on December 7, 1955, the Federal Power Commission issued its supplemental order adopted December 7, 1955, authorizing issuance of promissory notes in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-86; Filed, Jan. 5, 1956; 8:46 a. m.]

[Docket No. E-6648]

EKLUTNA PROJECT, ALASKA

NOTICE OF ORDER CONFIRMING AND APPROVING RATES

DECEMBER 29, 1955.

Notice is hereby given that on December 9, 1955, the Federal Power Commission issued its order adopted December 7, 1955, confirming and approving rates for non-firm energy for an interim period in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-87; Filed, Jan. 5, 1956; 8:46 a. m.]

[Docket No. E-6651]

OTTER TAIL POWER CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

DECEMBER 29, 1955.

Notice is hereby given that on December 8, 1955, the Federal Power Commission issued its order adopted December 7, 1955, authorizing issuance of promissory notes in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-88; Filed, Jan. 5, 1956; 8:46 a. m.]

[Docket No. G-8875]

HOPE NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER

DECEMBER 29, 1955.

Notice is hereby given that on December 8, 1955, the Federal Power Commission issued its findings and order adopted December 7, 1955, authorizing abandonment of service in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-89; Filed, Jan. 5, 1956; 8:46 a. m.]

[Docket No. G-9266]

DAYTON POWER AND LIGHT CO.

NOTICE OF FINDINGS AND ORDER

DECEMBER 29, 1955.

Notice is hereby given that on December 9, 1955, the Federal Power Commission isued its findings and order adopted December 7, 1955, directing sale and delivery of natural gas in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-90; Filed, Jan. 5, 1956; 8:47 a. m.]

[Docket No. ID-1268]

JOSEPH O. CHAMBERS

NOTICE OF ORDER AUTHORIZING APPLICANT TO HOLD CERTAIN POSITIONS

DECEMBER 29, 1955.

Notice is hereby given that on December 8, 1955, the Federal Power Commission issued its order adopted December 7, 1955, authorizing applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-91; Filed, Jan. 5, 1956; 8:47 a. m.]

[Docket No. E-6654]

DUKE POWER CO.

NOTICE OF APPLICATION FOR AUTHORIZATION TO SELL CERTAIN FACILITIES

DECEMBER 30, 1955.

Take notice that on December 23, 1955, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by Duke Power Company (Duke), a corporation organized under the laws of the State of New Jersey and doing business in the States of North Carolina and South Carolina, with its principal business office at Charlotte, North Carolina, seeking an order authorizing Duke to sell certain facilities, more fully described below, to Carolina Aluminum Company (Carolina), a North Carolina corporation, with its principal place of business at Badin, North Carolina.

Duke proposes to sell to Carolina for a consideration of $521,406 the following facilities: (1) A 100 kv transmission line approximately 3.07 miles in length, extending from a point near the Falls hydroelectric plant of Carolina on the Yadkin River in Stanly County, North Carolina, to a point near Carolina's aluminum smelting works in Badin, North Carolina, (2) a 100 kv transmission line approximately 15.43 miles in length, extending from a point near Carolina's High Rock hydroelectric plant on the Yadkin River in Davidson County, North Carolina, to a point near Carolina's aluminum smelting works in Badin, North Carolina, and (3) the switching and transformer stations and facilities of Duke which are associated with the operation of the above described transmission lines. The proposed use of the facilities after the proposed sale will be the same as the present use of said facilities; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to the aforesaid application should, on or before January 20, 1956, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's General Rules and Regulations. The application is on file for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-92; Filed, Jan. 5, 1956; 8:47 a. m.]

[Docket No. G-3861, etc.]

HOLLY NESTER ET AL.

NOTICE OF FINDINGS AND ORDERS

DECEMBER 29, 1955.

In the matters of Holly Nester, Agent, Garretson Lease, Docket No. G-3861; Progress Petroleum Company of Texas, E. Weber Ogden, and Dan J. White, Jr., Docket No. G-4223; E. C. Scurlock, Docket No. G-6817; Nollem Oil and Gas Corporation, Docket No. G-6921; Randolph Gas Company, Docket No. G-6963; Plains Exploration Company et al., Docket No. G-7240; Reef Fields Gasoline Corporation, Docket No. G-7343; Paul M. Raigorodsky, Docket No. G-8340; The Atlantic Refining Company, Docket No. G-9312.

Notice is hereby given that on December 12, 1955, the Federal Power Commission issued its findings and orders adopted December 7, 1955, issuing certifi-

cates of public convenience and necessity in the above-entitled matters.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-93; Filed, Jan. 5, 1956; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 3, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31493: *Logs from Alabama to Altavista, Va.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on logs, native wood, carloads, from Andalusia and Evergreen, Ala., to Altavista, Va.

Grounds for relief: Circuitous routes.

Tariff: Supplement 106 to Agent C. A. Spaninger's I. C. C. 1293.

FSA No. 31494: *Vegetables from Pacific Coast points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on vegetables, fresh or green, carloads, from points in British Columbia, California, Idaho, Montana, Oregon and Washington, to points in Colorado, Kansas, Nebraska, South Dakota, and Wyoming.

Grounds for relief: Carrier competition, circuity, and to maintain grouping.

Tariff: Supplement 60 to Agent Prueter's I. C. C. 1558.

FSA No. 31495: *Clay from Southern points to Bynum, Ala.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on clay, kaolin or pyrophyllite, carloads, from points in Alabama, Florida, Georgia, North Carolina, and South Carolina, to Bynum, Ala.

Grounds for relief: Carrier competition, circuity, and short line distance formula.

Tariff: Supplement 8 to Agent C. A. Spaninger's I. C. C. 1491.

FSA No. 31496: *Cast iron pressure pipe from the South.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on cast iron pressure pipe and fittings, with or without cement or composition lining or coating, with or without prepared joints, straight or mixed carloads, from points in Alabama, Georgia, and Tennessee, to points in Illinois, Iowa, Missouri, and Wisconsin.

Grounds for relief: Carrier competition and circuity.

AGGREGATE-OF-INTERMEDIATES

FSA No. 31497: *Pullman charges in Western Territory.* Filed by The Pullman Company, for interested rail carriers. Pullman charges for lower and upper berths, sections, duplex-roomettes, and compartments, between points in the United States.

Grounds for relief: Experimental space charges to meet competition of other modes of transportation.

Tariff: Supplement 12 to The Pullman Company I. C. C. A-56.

FSA No. 31498: *Liquefied petroleum gas in Official Territory.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on liquified petroleum gas, in tank cars, between points in official (including Illinois) territory.

Grounds for relief: Short line distance formula and motor competition.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 56-94; Filed, Jan. 5, 1956; 8:47 a. m.]